INTRODUCTION

In the early and mid-1980s, the concept of public interest litigation (PIL) was a subject of much discussion within circles of judicial activism throughout South Asia. In Pakistan, the concept of PIL was not fully embraced until the Supreme Court decision in the Benazir Bhutto case.\(^1\) The Supreme Court’s management of the pioneering PIL case of *Dharshan Masih v. The State*\(^2\) was subsequently one of the earliest examples of judicial activism through the use of PIL. Within a few years of these developments a post-graduate student of the School of Oriental and African Studies at the University of London produced the first academic study of the phenomenon of PIL in Pakistan.\(^3\) In 1999, this author also contributed to another academic analysis\(^4\) of the development of the PIL phenomenon.

One limitation to academic attempts to understand and rationalize the purpose and function of PIL was that, at the time they were written, there were not enough examples of PIL cases to give an impression of the *practice* of the law. This is in contrast to studies of the *theory* or the *foundations* of the law. Most of the studies undertaken till the turn of the century focused on where PIL came from or what it could accomplish. Very little attention (attributable to the scarcity of available examples) was given to what PIL had achieved.

It has now been two decades since Chief Justice Muhammad Haleem and others recognized the limitations of the “Anglo-Saxon outgrowth”\(^5\) our system of litigation represented and sowed the seeds of PIL into the landscape of Pakistani jurisprudence.\(^6\) This paper seeks to review the topography of that landscape. In doing so, it will have

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\(^1\) *Benazir Bhutto v. President of Pakistan* PLD 1988 SC 388.

\(^2\) PLD 1990 SC 513.


\(^5\) *Benazir Bhutto v. President of Pakistan* PLD 1988 SC 388, at p. 488.

the benefit of nearly two decades of case-law developed by PIL. It shall also refine some opinions on the origins of PIL within the larger context of the role of the Pakistani judiciary. It is hoped that this new analysis will provide the legal fraternity a firmer grasp of its role as the provider of justice for all.

THE HISTORICAL CONTEXT OF PIL IN PAKISTAN

The seeds of PIL were planted in Pakistan in the mid to late-1980s by such luminaries of the legal fraternity as, *inter alia*, Chief Justices Muhammad Haleem and Nasim Hasan Shah and former Attorney General Ali Ahmad Fazeel. In the wake of a newly re-introduced Constitution,7 elements within judicial circles began to debate the question of how the fundamental rights enshrined therein could be effectively enforced by a population which was (and is) largely ignorant or unaware of their rights. Part of the answer to this question was identified by Chief Justice Muhammad Haleem as a “massification” of society; where citizens were “increasingly drawn together”8 on the basis of rights and interests. Former Attorney General Ali Ahmad Fazeel and Former Chief Justice of Pakistan Nasim Hasan Shah also recognized the phenomenon of “massification” and, carrying the principle to its logical conclusion, were able to formulate more concrete answers to the question: That the enforcement of the rights of groups of people could be achieved if the law recognized the enforcement of rights beyond the concept of the aggrieved person; that justice for all could be served if the rights of groups of people could be enforced.9

However, in order to provide this “justice for all”, certain well-established legal principles had to be modified. This was achieved with the decision of the Apex Court in the *Benazir Bhutto* case. In his leading judgment, Chief Justice Haleem began by pointing out that the adversarial nature of litigation engendered by the Pakistani procedural systems was ill-suited for granting relief to a large number of unidentified litigants. Under such an essentially “Anglo-Saxon outgrowth”10 only a person wronged could initiate legal proceedings. Indeed, one Chief Justice of the Lahore High Court implied that, because of the adversarial nature of legal procedures, “the doors of the traditional

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7 The 1973 Constitution was in “abeyance” from 1977 until 1985.
legal system in a way have been closed to the poor. Another former Chief Justice of Pakistan, Mr. Justice Ajmal Mian (as he was then) went as far as to say that the adversarial system was an “inherited evil”.

Relying on the Indian Supreme Court case of S.P. Gupta v. President of India to formulate an innovative argument based on the “triad of provisions which saturate and invigorate the Constitution, namely the Objectives Resolution (Article 2-A), the Fundamental Rights and the directive principles of State Policy”, Chief Justice Muhammad Haleem was able to mould the law relating to locus standi into the following formulation:

It is therefore permissible when . . . in other cases where there are violations of Fundamental Rights of a class or a group of persons who belong to the category as aforesaid and are unable to seek redress from the Court, then the traditional rule of locus standi can be dispensed with, and the procedure available in public interest litigation can be made use of, if it is brought to the notice of the Court by [a] person acting bona fide.

With nearly two decades of PIL in Pakistan, it is now time to challenge and refine a major assumption made in relation to the origins of the concept of PIL in Pakistan: That the Pakistani judiciary’s experiment with PIL was a reaction to the success it was enjoying in the neighboring jurisdiction of India.

While it is true that judgments from the Indian jurisdiction were referred to in the Benazir Bhutto case, the exact extent of their influence may never be precisely determined. However, in this author’s view, such a determination is not necessary. The need to provide justice to all was (and is) a priority of every member of our judiciary. And this need – necessity being the mother of all invention – so well elaborated in the words referred to above, constrained reference on decisions from the Indian jurisdiction only as

12 “Hardships to litigants and miscarriage of justice caused by delay in courts” PLD 1991 Journal 103.
13 AIR 1982 SC 149.
15 PLD 1988 SC 433 at p 491.
a means to an end. It is clear that the intellectual foundations which support the decisions of the Superior Courts from Benazir Bhutto onwards were and can still be found within Pakistan.

Within two years of the Benazir Bhutto case, the Chief Justice of Pakistan exercised his _suo moto_ powers (one of the most striking features of the PIL jurisdiction) to convert a letter revealing violations of fundamental rights into a petition under Article 184(3) of the Constitution, and marked the same to be heard by Mr. Justice Afzal Zullah (as he was then). _Dharshan Masih’s case_ 16 was one of the first examples of the exercise by the Superior Courts of their new _suo moto_ jurisdiction, and within a few years, a number of remarkable PIL cases had been decided. 17 In 1991, Chief Justice Afzal Zullah had taken the PIL initiative and was instrumental in passing what has now become known as the Quetta Declaration. 18 This declaration re-affirmed the Superior Judiciary’s intention to bring social justice to all, and was a milestone in the early existence of PIL in Pakistan. By 1993, Chief Justice Nasim Hasan Shah reported that “over 600 subjects [had been] classified [as] requiring action” under the PIL jurisdiction. 19 Some would argue that the early to mid-1990s was the golden age of the development of PIL. 20

With the concept of PIL firmly planted by the early 1990s, there have been enough PIL cases for further analysis into the origins of the phenomenon. 21

Grown under the shadow of a Constitution re-introduced in 1985, the creation and development of the PIL jurisdiction can also be seen as a manifestation of the Islamic and democratic ideals enshrined therein. If it can be assumed that decided cases are a reflection of the nature of the law, then an examination of the corpus of PIL case law will surely reveal other factors influencing its origins. For instance, the non-adversarial nature of PIL proceedings often result in consensus decisions which appear similar to

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16 PLD 1990 SC 513.
20 See Menski, Alam & Kasuri, _Ibid._ , at pp. 61 to 63.
21 By 2000, the Annual Law Digest had created a separated “Public Interest Litigation” sub-heading within the case law reported under Article 199 of the Constitution (the Superior Court’s Constitutional jurisdiction).
the principle of *Ijtma* in Islamic law. It can also be said that the space provided by an open Court exercising its PIL jurisdiction is one of the few places citizens can challenge their elected representatives and the institutions they operate without recourse to the polls. With some Islamic scholars arguing that the use of *Ijtma* makes Islamic law compatible with Democracy, the link between PIL and Islamic and democratic principles is becoming difficult to ignore.

In the *Dharshan Masih* case, Justice Zullah (as he was then) observed that parties in PIL proceedings could not be categorized as “complainants,” the “accused,” or a “contesting party”, nor could any of the interim orders passed in PIL proceedings be treated as indicating success or failure. In *Ameer Bano v. S.E. Highways*, Mr. Justice Aqil Mirza of the Lahore High Court directed the resolution of the PIL matter before him “through consensus.” In *M. Ismail Qureshi v. M. Awais Qasim*, the Supreme Court converted adversarial proceedings relating to student politics into a PIL and invited and heard arguments from students, teachers and politicians. The Honorable Court’s order in the matter, freed from the requirement of being litigant or relief-specific, addressed a larger public issue. PIL case law is now replete with many more examples of where the Courts have taken on the role of Guardian or a *Qazi*, heard the arguments of all stake-holders in an inquisitorial manner, and, after consensus, passed orders for the benefit of all concerned.

The democratic function of PIL can be understood in the backdrop of Pakistani politics. Barring the odd intervention, the Fundamental Rights guaranteed in the Constitution have been enforceable since 1985. In an ideal democratic republic, Fundamental and legal rights are protected through the enforcement of laws passed by representative institution. But this cannot be said of countries where democratic institutions are weak in comparison to bureaucratic of other non-elected institutions. From the re-introduction

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22 Some scholars argue that the use of *Ijtma* makes Islamic law compatible with democracy, see http://en.wikipedia.org/wiki/Ijma
23 PLD 1990 SC 513 at p. 543; a point sadly missed, at the expense of many a *pro bono publico*, by peons.
25 1993 SCMR 1781.
26 For example, the Presidential Order of 29 April 1998 declaring a State of Emergency and rendering unenforceable the Fundamental Rights in Chapter I of Part II of the Constitution.
of the Constitution in 1985 to date, democratic institutions in Pakistan have fought to claim and re-claim their role as the governors of the country.\(^{28}\)

While the reasons for the weaknesses of democratic institutions in Pakistan falls outside the scope of this presentation, it is fair to say that one of the major challenges faced by citizens is the ability to find a forum to challenge their elected representatives. With notable exception,\(^{29}\) elected representatives are accountable only at the polls. Under the system of PIL, however, large groups of people – acting similarly to constituents at election time – may challenge the actions and decisions of their leaders or of government officers. The PIL jurisdiction thus provides the public with a forum through which their voices may be heard. This function of public accountability performed by PIL is another feature of the landscape of this jurisdiction which must not be ignored.

A good example of the Superior Courts contributing to the process of democracy through PIL can be found in the Pakistan Environmental Protection Act, 1997 (PEPA).\(^{30}\) Prior to its enactment, the Superior Courts had faced a number of environment-related PIL cases.\(^{31}\) In some instances, the Courts even took _suo moto_ notice of environmental matters.\(^{32}\) The debates which ensued in the forum created by these cases highlighted the urgency of environmental regulation. The National Assembly, at some level, took notice of this debate and passed PEPA.

PEPA is a revolutionary law which set up and established an environmental regulator, the Pakistan Environmental Protection Agency, as well as special Environmental Tribunals. The Act sets out environmental standards, defines environmental offences and, in general, provides for the improvement and protection of the environment. However, as is the case with weak democratic institutions, many of PEPA’s key features


\(^{29}\) The Pakistan Environmental Protection Act, 1997 gives the public the right to participate in the review of, _inter alia_, projects likely to cause an adverse environmental effect.

\(^{30}\) Another example is the passage of the Bonded Labour System (Abolition) Act, 1992 in the wake of the Dharshan Masih case.


\(^{32}\) See, for example, Pollution of Environment caused by smoke emitting vehicles, Traffic Muddle 1996 SCMR 543, Human Rights (Environment Pollution in Baluchistan PLD 1994 SC 102.
were left unattended and the legislation was in danger of becoming defunct. It was only PIL activism which alerted the Superior Courts to the situation, and orders were passed directing the State to formally establish the Environmental Tribunals and pass such rules and regulations as would give meaning to the spirit of the Act. Indeed, as correctly noted by Mr. Justice Chaudhary Ijaz Ahmad of the Lahore High Court in the Anjum Irfan case, the provisions of PEPA could not have been enforced without the “active participation of the public.” Whenever recourse to elected representatives or democratic institutions proves insufficient, or where bureaucratic red-tape becomes inefficient, the pivotal role played by PIL in facilitating the democratic rights of the public is clear.

It is important to recognize these new perspectives on the origins of PIL as it is hoped they will provide the Bench and the Bar a context in which to understand the roles they are obligated to carry out. Only with these new perspectives established in context can new distinctions in the practice of PIL be considered.

THE CLASSIFICATIONS OF PIL
The PIL case law generated within the Superior Courts’ Constitutional jurisdiction over the past two decades seem, to this author, to be distinguishable in the following manner:

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33 See Jawad Hassan, Environmental Laws of Pakistan, (Bookbiz, Lahore: 2006) at p. 312, Jawad Hassan v. Ministry of Law and others (Writ Petition No. 13470 of 2000 before the Honorable Lahore High Court) (where the Supreme Court issued directions for the establishment of Environmental Tribunals) and Anjum Irfan v. Lahore Development Authority and others PLD 2002 Lah 555 (where the Lahore High Court directed the implementation of rules and regulations under PEPA).
34 PLD 2002 Lah 555, at p.
35 I pray it is not out of context to point out that, at the time of preparing this presentation, the Environmental Tribunal at Lahore has not been functioning for over two months on due to the absence of a Chairman to conduct its proceedings.
36 The High Courts are conferred Original Jurisdiction by Article 199 of the Constitution whereas the Original Jurisdiction of the Supreme Court is conferred by Article 184(3).
“PURE” PIL

“Pure” PIL cases can be categorized as those exercises of the PIL jurisdiction where the procedure of the Court is determined by the public issue at hand. In such cases, it is now not unusual for the Superior Courts to convert letters into petitions, conduct inquiries, summon public officials for explanation or carry out “rolling reviews” of its orders.37 A recent example of a case in this category is Syed Mansoor Ali Shah v. Government of Punjab and others.38 Here, a petition was filed against the high levels of vehicular pollution in the city of Lahore. The High Court, placing the administration of the issue above regular procedure, ordered the constitution of the Lahore Clean Air Commission (under the chairmanship of Dr. Parvez Hassan and under the co-chairmanship of the Advocate General of Punjab) and charged the body with the responsibility of preparing a report on methods to improve the air quality of the city. The Commission held an international conference and invited local stake holders and foreign delegates to share ideas and strategies for the improvement of air quality.39 The success of the PIL initiative under which the Clean Air Commission was established can be gauged by the fact that the Government of Punjab has, under the Chief Minister’s Green Punjab campaign and in accordance with the Commissions’ findings and recommendations, begun to phase out two-stroke cycle rickshaws in favor of environmentally friendly four-stroke CNG rickshaws.40

PIL “TOOLS”

Development in the principles of PIL has seen the rise of a remarkable number of PIL “tools.” These tools, which are in fact a relaxation of the otherwise strict rules of the adversarial litigation system, can be understood as a means to promote the goals of PIL. Examples of these tools are the widening of the scope of *locus standi*; softening the law of limitation,41 precedent42 and procedure;43 and the transformation of the nature of proceedings from adversarial to inquisitorial. All these tools are geared towards

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38 Writ Petition 6927 of 1997 before the Honorable Lahore High Court. Another example is the Solid Waste Management Commission set up by the Lahore High Court in City District Government, Lahore v. Mohammad Yousaf (Intra-Court Appeal No. 798 of 2002).
40 “Rs. 1 billion plan for CNG buses, rickshaws,” Dawn, 5 May 2005 at http://www.dawn.com/2005/05/05/nat25.htm
41 See Ghulam Ali v. Ghulam Sarwar PLD 1990 SC 1 where the Court refused to accept a plea that a female petitioner’s arguments had become time-barred.
achieving the goals of PIL as set out in the words of Chief Justice Ajmal Mian of the Supreme Court of Pakistan in *Pakistan Tobacco Company Ltd. v. Federation of Pakistan*:44

We are inclined to hold that the question whether a particular [PIL] petition is maintainable is to be examined not on the basis as to who has filed the same, but the above question is to be determined with reference to the controversy raised in the Constitution petition, and if the controversy involves a question of public importance with reference to the enforcement of any of the Fundamental Rights the same will be sustainable. (emphasis added)

The “tools” of PIL are best seen in what this author terms “pure” PIL cases. Here, the subject matter of the PIL petition dictates the procedure of the Court45 and the function of the Courts in providing a forum for democratic debate and finding “consensus” solutions to public issues is clear to see.

**PETITIONS WITH A PUBLIC INTEREST COMPONENT**

However, not all PIL petitions can be categorized as “pure” PIL cases. Most PIL petitions have the same nature as regular writ petitions filed within the Constitutional Jurisdiction of the Superior Courts, except that they contain a public interest component. In other words, the petitioners seek not only relief for themselves but also relief which can be described as for the “public.” However, the problem with this classification is that it is difficult to discern the public interest components of such PIL petitions. As a result, all too often such PIL petitions are dealt with under the ordinary rules of procedure while their public interest components are glossed over in deference to the adversarial nature of litigation. For example, in the *Doongi Ground*46 case, a PIL petition was treated as an ordinary petition and dismissed for non-prosecution, an unexpected decision given that the hallmark of the PIL jurisdiction is relief from the technicalities of procedure. The inability to clearly identify the PIL component of such petitions is a blow to the objectives of PIL: justice for all through an accountable and functioning Islamic democracy.

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45 See Dr. Faqir Hussain, “Public Interest Litigation in Pakistan,” PLD 1993 Journal 73.
46 *Shahri C.B.E. v. L.D.A.* etc. (Writ Petition 1226 of 2006 before the Lahore High Court).
It is possible to predict when a petition with the public interest component is likely to be treated under the regular rules of procedure by reference to the nature of the relief prayed for. Petitions claiming “positive relief” involving directions to concerned public authorities to do particular things are most often treated as “pure” PIL cases. On the other hand, petitions claiming “negative” relief – those of a don’t do nature – involve challenging orders or actions which would, if accepted, require the Courts to issue orders in the nature of prohibition or certiorari. “Negative” petitions with a PIL component are most likely to be treated as regular petitions as the respondents in such cases will use any available legal argument to protect their interests. In one PIL petition, this author was witness to respondent counsel advancing highly technical arguments challenging the validity of the power of attorney through which the PIL petition was filed.

While the dismissal of writ petitions on technical grounds is, on its own, no cause for alarm, the price for missing the importance played by PIL as it understood in its new historical context may be too costly to bear. In some instances, the denial of petitions with a public interest component may also be a denial of the democratic forum provided by the PIL jurisdiction. This is because a great majority of such petitions share a unique feature: they are filed against the State, the concerned government or some other public body. They represent, at some level, the petitioner’s desire to accommodate himself and the public at large. Within the context of PIL providing a forum for democratic debate, a large number of such PIL petitions is an indication that citizens are not able to effectively enforce their rights by leveraging democratic institutions. In our burgeoning democratic environment, elections alone may be too little and too far apart. To dismiss such PIL petitions on technical grounds is to deprive citizens of an important democratic forum.

THE SUO MOTO JURISDICTION

The third category of PIL cases is the exercise by the Superior Courts of its suo moto jurisdiction. By freeing themselves entirely from the requirements of “petitioners” or “aggrieved persons” and, given the PIL “tools” which have been developed, the Superior Courts are not bound by any procedural limitations. The objective to provide justice to

47 Pakistan Environmental Law Association and others v. The Provincial Environmental Protection Agency (Write Petition No. [ ] of 2005 filed before the Honorable Lahore High Court).
all becomes the driving force of the proceedings. This *suo moto* jurisdiction is both a remarkable and controversial feature of PIL. It allows the Superior Courts to free themselves totally from the rules of procedure and precedent. On the other hand, some have argued that this jurisdiction is too arbitrary and does not sit well within the scheme of Pakistani law.\(^48\)

Recently, the Supreme Court of Pakistan has taken up many PIL cases in exercise of its *suo moto* powers. The range of issues brought under PIL scrutiny have ranged, *inter alia*, from the monitoring the enforcement of particular laws,\(^49\) the well-publicized rape of a woman in Muzzafargarh,\(^50\) the rehabilitation of persons affected in the earthquake of October 2005, the deaths caused by kite string in Lahore, the lease of public land for use as a mini-golf course in Islamabad,\(^51\) the murder of a journalist in the NWFP, the acquittal of accused in a kidnapping-murder case, the accidental electrocution of three children in Hyderabad, the cutting of trees in Faisalabad and along Lahore’s Canal road and the apparent extra-judicial killing of a man by police in Karachi.\(^52\)

It is evident that there is no common thread linking these cases together. Further, there is no measure for the frequency with which this jurisdiction is exercised. In this light, the Superior Courts’ exercise of its *suo moto* jurisdiction appears quite arbitrary.\(^53\) In my opinion, the question before the Superior Courts is how they can exercise their *suo moto* jurisdiction without venturing *ultra vires* of the Constitution,\(^54\) upsetting settled and well-respected principles of separation of powers or appearing to be judge, jury and executioner rolled into one.\(^55\) In addition, the answer to such a question must also provide for some consistency which will remove the uncertainty of when the *suo moto*

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\(^49\) The Marriage Functions (Prohibition of Ostentatious Displays and Wasteful Expenses) Ordinance, 2000.

\(^50\) The *suo motu* intervention of the Supreme Court in the Mukhter Mai rape case was initiated by former Chief Justice Nazim Hussain Siddiqui.

\(^51\) Constitution Petition No. 56 of 2005 (the *Jubilee Park* case).


\(^53\) Much like what was said of the dispensation of equitable relief by the Lord Chancellor: That it various with the length of the Chancellor’s foot!

\(^54\) Unfettered, arbitrary and unguided exercises of authority are violative of Article 25 of the Constitution of Pakistan under the rule laid down by *Waris Meah v. The State* PLD 1957 SC (Pak) 157.

\(^55\) Indeed, one must pay heed to Perrin J’s warning of the evils of arbitrarily excised power in *Conway and Lynch v. R* (1845) 7 Ir LR 149: “The Discretion of a judge is the law of tyrants; it is always unknown; it is different in different Men; it is casual and depends on Constitution, Temper and Passion. In the best it is often times Caprice, in the worst, it is every Vice, Folly, and Passion to which human Nature is liable.”
jurisdiction is exercised. By doing so, the Courts will be able to persuade opinions like this: 56

The [Supreme Court of Pakistan] is not supposed to function like some kind of complaint cell for each and everyone who is seeking justice vis-a-vis any corrupt or non-performing individual, department or organization, specially the police or the lower courts.”

PIL PROTOCOLS
The solution, this author submits, is for the development of protocols regulating the exercise of *suo moto* jurisdiction. This can take the form of a common judicial understanding – similar to the Quetta Declaration of August 1991 57 – on how the exercise of *suo moto* jurisdiction is to be conducted. Alternatively, a single *puisne* judge for each Court or Registry can be appointed for the purpose of exercising the *suo moto* jurisdiction. The effect of both is regulation.

The benefits of such regulation will not be limited to stemming criticism of the exercise of the *suo moto* jurisdiction. Indeed, it will enable the Superior Courts to identify and prioritize issues they feel need to be addressed in the public interest. This will, in turn, serve a dual purpose: rationalization of the use of an otherwise arbitrary power and an indication of the debates which advocates of the public interest debates must prepare for.

This last purpose deserves brief elaboration. If PIL provides a democratic space, then the Courts must be weary of becoming democratic alternatives. The function of PIL is to nurture democracy by providing a forum for democratic debate. But this must not become the only such forum. Under our Constitution, the correct forums for debate are, for example, the Senate, the National and Provincial Assemblies, and the Zila, Tehsil and Union Councils. Care must be taken to gradually build the capacity of these institutions. Any protocols developed for the exercise of the *suo moto* jurisdiction – indeed, the entire PIL jurisdiction itself – must provide for this. It is submitted that such protection can be achieved if the Superior Courts, in the exercise of their PIL jurisdiction,

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57 See note 18, supra.
employ the use of a PIL filter much like the “alternative remedy” filter used in the writ and original jurisdictions.\textsuperscript{58} It is proposed that a “democratic alternatives” filter be employed.

Under such a filter, PIL petitioners would be required to show their efforts in engaging democratic institutions for the purposes of enforcing their group rights. This suggestion may be criticized on the grounds that such a filter would, given the public’s lack of knowledge of their rights and democratic alternatives, prove a hindrance to the goal of providing justice to all. However, having a well defined set of PIL protocols would give public interest advocates an indication of which democratic institutions are to be approached for the redressal of group rights. In any event, it would be against the nature of the PIL jurisdiction to strictly enforce such protocols. The purpose of the protocols is not just to regulate the PIL and \textit{suo moto} jurisdiction of the Courts, but also to promote Islamic and democratic ideals.

\textbf{CONCLUDING REMARKS}

PIL is now a prominent feature on the landscape of Pakistani jurisprudence. Its distinct features have not been correctly discernable till now. It used to be thought that PIL is a means of social justice. While this view is correct, a survey of the PIL jurisdiction as it has grown since its seeds were first planted in the 1980s reveals that PIL has more than one function. It is, in some ways, nurturing the foundations of stable democracy. At the same time, PIL fulfills another ideal of the Constitution: the promotion of an Islamic way of life.\textsuperscript{59}

The Bench and the Bar should be mindful of the functions of PIL. It is only through a better understanding of the role of PIL within the wider context of Pakistani jurisprudence that the objective of the judiciary – justice to all – can be achieved.

\textsuperscript{58} Under this principle, writ petitions are not maintainable if the petitioner has an alternative legal remedy (usually in the nature of another court, tribunal or legal forum).

\textsuperscript{59} See Article 31 of the Constitution (the Principle of Policy to promote an Islamic way of life).