



## Writ jurisdiction of supreme court of Bangladesh to protect fundamental rights and its significance on public interest litigation

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### Abstract

Judiciary, being the sentinel of constitutional and statutory rights of citizens has a special role to play in the constitutional scheme. It can review legislation and administrative actions or decisions on the anvil of constitutional law. In Bangladesh, for the enforcement of fundamental rights one has to move the Supreme Court or the High Court directly by invoking Writ Jurisdiction of these courts. Till 1960s and 70's, the concept of litigation in the then East Pakistan and thereafter in Bangladesh was still in its rudimentary form and was seen as a private pursuit for the vindication of private vested interests. Litigation in those days consisted mainly of some action initiated and continued by certain individuals, usually, addressing their own grievances/problems. There were very little organized efforts or attempts to take up wider issues that affected classes of consumers or the general public at large. However, these entire scenarios changed with the emergence of the concept of public interest litigation (PIL).

This article will discuss theoretically, the scope of Writ jurisdiction of Supreme Court in effectively ensuring fundamental rights, the role of public interest litigation in ensuring justice and its relation to Writ jurisdiction.

**Keywords:** writ, jurisdiction, public interest litigation, fundamental rights, human rights, constitution

### Introduction

“Justice without force is impotent; force without justice is tyranny”<sup>[1]</sup>

A court of law is the only place where a person can seek justice and the Supreme Court being the apex Court of Bangladesh, is the last resort for ensuring justice to the peoples. There are many ways by which a judge administers justice keeping himself within the periphery of the constitution. Amongst all, Writ is one of the most important and effective mechanisms to ensure justice. It is said to be one of the most exceptional power of the court which can be used to ensure justice. A writ is a formal written order issued by a body with administrative or judicial jurisdiction. In modern usage, this body is generally known as court. Writ practice is administered by a complicated set of rules and specifications that varies by jurisdiction. There are several different kinds of writ petition, but all have one thing in common. They ask an appellate-level court to take some extraordinary action and intervene in another institutions/courts process to institute some higher legal remedy or legal relief. Though the Constitution provides for this special kind of remedy to be exercised by the Court, such kind of remedy is not always available except in case of protecting the violation of fundamental rights. However the situation is changing gradually with the use of writs in Public Interest Litigation and by relaxing the requirements of *locus standi* in bringing a claim which is of course a result of judicial activism. Such judicial activism is always welcomed and wanted if it is exercised within the purview of the constitution.

### Methodology

This is a theoretical study on the subject matter and the study largely depends on secondary information deriving

from books, journals, publications, case laws, websites and articles. These information are systematically gathered and analyzed from different point of view of different writers and researchers including the current writer. It is hoped that the article will give the readers insight into the significance of writ in protecting fundamental rights and in flourishing the concept of Public Interest Litigation to truly ensure justice for all.

### Objectives

**The core objectives of this article are as follows**

- To evaluate the concept of the writ and writ jurisdiction
- To examine the power of the Supreme Court of Bangladesh in issuing writ.
- To show the legitimacy of writ matter on the basis of the Constitution.
- To examine the relation of writ in protecting fundamental rights.
- To evaluate the concept of Public Interest Litigation.
- To examine the correlation of writ and public interest litigation.

### Meaning of Writ

In general writ means a written document but in legal terminology it has a restricted meaning. In legal terms, it is a document by which one is summoned or required to do or refrain from doing something<sup>[2]</sup>. “Writ means” a written command, precept, or formal order issued by a court, directing or enjoying the person or persons to whom it is addressed to do or refrain from doing some act specified therein<sup>[3]</sup>. According to Blackstone, writ is mandatory letter from the king in Parliament, sealed with his Great Seal, and directed to the Sheriff of the Country wherein the injury is committed or supposed so to be, required him to command

the wrong-doer or party accused, either to do justice to the complainant or else to appear in Court, and answer the accusation against him. According to Burton's legal thesaurus writ stands for bid, bidding, command, commandment, decree, direction, directive, flat, mandate, order, ordinance, percept, regulation and requirement. Simply the word writ is used to indicate a particular type of order or judicial process.

### Concept and Classes of Writ

Historically writ originated and developed in English Legal System. In England, the writs are issued by the Crown as the head of the judicial system. Where there is no statutory source and the Crown issued it by virtue of prerogative, it was called the prerogative writ e.g. the writ of Habeas Corpus, Mandamus, *Prohibition*, *Certiorari*, and *Quo Warranto* [4]. There are some other kinds of writ, e.g. writ of execution, writ of error, writ for the election, writ of a Member of Parliament, etc. issued in the name of the reigning monarch, for the doing, or not doing, of some act or thing. In Bangladesh, there is no prerogative power belonging to any organ of government. But power to issue the writ corresponding to the English prerogative writ has been rested with the High Court Division under Article 102 of the constitution of the People's Republic of Bangladesh. Since these writs are founded on the express provisions of the constitution, the High Court Division is also free to issue appropriate orders in the nature of those writs, embodying their essential principles. However, these writs are available not only for the enforcement of fundamental rights but also for the enforcement of non-fundamental legal rights created by various statutes and other Laws in force for the time being. In the context of Bangladesh, writ can be classified as: Habeas Corpus, Mandamus, *Prohibition*, *Certiorari*, and *Quo Warranto*.

**Habeas Corpus** means 'have his body' i.e. to have the body before the Court. So it is a kind of order of the Court that commands the authorities holding an individual in custody to bring that person before Court. The authorities must then explain in the Court why the person is being held [5]. Under sub-clause (i) of clause (b) of sub-article (2) of article 102 of the Bangladesh Constitution, the High Court Division, on the application of any person, directs that a person in custody be brought before it to satisfy itself as to whether he is being held in custody with or without lawful authority [6]. Sec.491 of the Code of Criminal Procedure also authorizes the High Court Division to issue a direction in the nature of a writ of Habeas Corpus to bring before it a person detained in public or private custody in order to see as to whether he is being detained illegally or improperly [7]. If the High Court Division finds that such a person is being held in custody, illegally or improperly, it then directs the detaining authority or person to set him at liberty. The Writ of 'Habeas Corpus' is a process for securing the personal liberty of the subjects by affording an effective means of immediate release from unlawful or unjustifiable detention, whether in prison or in private custody [8]. This writ is the most important weapon forged by the ingenuity of man to secure the liberty of the individual. There is no judicial process more familiar or important than this. Lord Acton points out that it is often said that the British Constitution "attained its final perfection in 1969 when Habeas Corpus Act was passed" [9].

**Mandamus** means 'we command'. By writ of Mandamus, the superior court directs any person, corporation, lower court or government to do something, specified therein, which pertains to his or their office and is in the nature of a public duty [10]. Sub-clause (i) of clause (a) of sub-article (2) of article 102 of the Constitution authorizes the High Court Division to direct a person performing functions in connection with the affairs of the Republic or a local authority to do what he is required by law to do [11]. This remedy is available when any right of a person, arising from any law and not from any contract, is violated. The applicant must show that he has a legal right to the performance of legal duty by the person or authority against whom the writ is prayed for.

According to Ferris, Generally speaking, it may be said that Mandamus is a summary writ, issuing from the proper court, commanding the official or board to which it is addressed to perform some specific legal duty to which the party applying for the writ is entitled of legal right to have performed" [12]. In Halsbury Laws of England [13], Mandamus is described as follows:-

"The order of Mandamus is an order of a most extensive remedial nature, and is in form, a command issuing from the High Court of Justice directed to any person, corporation or inferior tribunal, requiring him or them to do some particular thing therein specified which appertaining to his or their office and is in the nature of public duty".

Thus it is clear that when a court or tribunal or an authority or a person has refused or failed to perform his statutory obligation, it is the writ of Mandamus by which the higher court can compel the authority or court or person to do his statutory obligation. So Mandamus is a positive remedy.

**Prohibition** means 'to forbid' from doing something. In other words, it is a writ issued by the superior court to a lower court, tribunal or administrative authority prohibiting it from doing something which it is not authorized by law to do [14]. Sub-clause (i) of clause (a) of sub-article (2) of article 102 of the Constitution authorizes the High Court Division to direct a person performing any functions in connection with the affairs of the Republic or local authority to refrain from doing what he is not permitted by law to do [15]. Prohibition is an ordinary remedial writ, as old as the common law itself. Originally the primary purpose of prohibition was to limit the jurisdiction of the ecclesiastical courts. Writ of Prohibition is a judicial order issued by the High Court to any constitutional, statutory or non-statutory agency to prevent these agencies from continuing their proceeding in excess or abuse of their jurisdiction or in violation of the principles of natural justice or in contravention of the law of the land [16].

**Certiorari** means 'be certified' of the proceedings of any lower court or tribunal to be investigated by the superior court. Records of any pending or concluded proceedings before any authority or court including a tribunal can be called for by the High Court Division of the Supreme Court of Bangladesh for its examination as to the legality or otherwise of the said proceedings [17]. Under sub-clause (ii) of clause (a) of article 102, not only legality of a proceedings but also any act done by a person, performing functions in connection with the affairs of the Republic or a local authority, can be declared to have been done without any lawful authority and with no legal effect [18]. Thus remedy under the aforesaid sub-clause (ii) is wider than that

of the remedy available in a writ of Certiorari. In a writ of Certiorari, superior court interferes when the lower court or tribunal acts without any jurisdiction or in excess of its existing jurisdiction or in cases where it fails to exercise its jurisdiction - for example, when it decides a case without giving an opportunity to the parties to be heard or violates the principle of natural justice or if there is an error apparent on the face of the record of such proceedings. But under sub-clause (ii) of clause (a) of article 102, the High Court Division can also declare any act done by any authority, which is neither a judicial nor a quasi-judicial, to be without lawful authority<sup>[19]</sup>.

**Quo Warranto** means 'by what warrant or authority'. Writ of Quo Warranto provides remedy against illegal occupation or usurpation of any public office or franchise or liberty. It enables inquiry into the legality of the claim, which a person asserts to an office or franchise and to oust him from such position, if he is an usurper. The holder of the office has to show to the court under what authority he holds office<sup>[20]</sup>. Such remedy is available under sub-clause (ii) of clause (b) of sub-article (2) of article 102 of the Constitution from the High Court Division. This writ of Quo Warranto is issued to show by what authority a person is holding or purporting to hold a public office. A writ of Quo Warranto may be applied at the instance of any person even who has no personal or special interest. A stranger can also file such writ petition. It is discretionary relief which the Supreme Court may grant or refuse according to the facts and circumstances of each case. Thus, the Supreme Court may refuse it where the application was actuated by ill-will, or malice or ulterior motive.

### Writ Jurisdiction

According to Blacks Law Dictionary-

Jurisdiction means- A government's general power to exercise authority over all persons and things within its territory; a states' power to create interests that will be recognized under common law principles as a valid in other states. A court's power to decide a case or issue a decree<sup>[21]</sup>. The Constitution has conferred on the High Court Division (HCD) original jurisdiction in the field of writ matters. The basis of writ jurisdiction is Article 102 of the Constitution of Bangladesh. Writ jurisdiction means the power and jurisdiction of the HCD under the provisions of the Constitution whereby it can enforce fundamental rights as guaranteed in part III of the Constitution and can also exercise its power of judicial review.

Under the constitution, the High Court Division has power under art.102(1) to pass necessary orders to enforce fundamental rights and under article 44(1) the right to move the High Court Division under article 102(1) is itself a fundamental right. In view of the provision of art-44, the High Court Division cannot refuse to entertain an application under article 102 (1) on the ground that the petition involves resolution of disputed question of fact. If necessary in appropriate cases, the court will have to take evidence. The constitution does not stipulate the nature of the relief which may be granted. It has been left to the High Court Division to fashion the relief according to the circumstances of a particular case. The constitution has not stipulated any procedure for the remedy and it is for the court to adopt its own procedure. The high Court Division follows certain rules of procedure and practice in respect of all writ petitions, whether one involves enforcement of

fundamental rights or not. A person may apply for enforcement of fundamental right when there is a threat to infringe it and need not wait till the threat is carried out. The threat must be real and the mere apprehension that the petitioner may be deprived of his fundamental right is not sufficient to invoke the jurisdiction of the court. The article further confers upon the High Court Division power to issue writs or orders not only for the enforcement of the fundamental rights but also for any other purpose.

There are some other provisions of law which also empowers the Court to issue writ such as Section-491 of the Code of Criminal Procedure empowers the Court to issue directions in the nature of a Habeas Corpus.

### Limitation on the jurisdiction of high court Division

The constitution has imposed restriction on the exercise of the writ jurisdiction of the high court division of the Supreme Court thus: Firstly, the High Court division can not pass any interim or other order in relation to any law to which article 47 applies. Secondly, when a writ petition praying for prohibition, Mandamus, or Certiorari is filed along with a prayer for an interim order which is likely to have the effect of prejudicing or interfering with any measure designed to implement any development program, or any development work or be otherwise harmful to the public interest such interim order cannot be issued without notifying and hearing the Attorney General as per provisions of the constitution and unless the high court division is satisfied that such interim order will not have any of the above mentioned effects.

The writ jurisdiction usually does not extend to authorities specifically excluded by the constitution under article 105 (5) thus a court or tribunal established under a law relating to the defense service of Bangladesh or any disciplined force or a tribunal to which Article 117 applies are beyond the purview of the writ jurisdiction of the High Court Division.

### Writ Jurisdiction of the Appellate Division

Article 104 of the Constitution of Bangladesh empowers the Appellate Division to issue such directions, orders, decrees or writs as may be necessary for doing complete justice in any cause or matter pending before it. In exercising its appellate jurisdiction only, the Appellate Division can interfere if it can be shown that the exercise of the writ jurisdiction under Article 102 of the Bangladesh Constitution by the High court Division is plainly arbitrary or unreasonable or is not in accord with the accepted principles governing its exercise.

### Writ Respondents

Writ of Certiorari, Mandamus and prohibition lie against 'any person' performing functions in connection with the affairs of the Republic or of a local authority and not against a private individual or body. Thus the 'person' must be a public functionary. A writ petition will not lie even against a public functionary in respect of functions performed not in connection with the affairs of the Republic or a local authority, but in his private capacity. Writ of Habeas Corpus lies against any person, be he a public functionary or private person, while Quo Warranto lies against a person holding or purporting to hold a public office. Article 102(5) stipulates that the expression person in art 102 includes a statutory

authority and any court or tribunal except (i) a court or tribunal established under a law relating to defense service or any discipline force and (ii) a tribunal to which art.117 is applicable. The definition of person is both inclusionary and exclusionary. Person thus includes all statutory authorities and courts and tribunals except the ones excluded. Statutory public authorities are defined in article 152 as the authorities whose activities are authorized by statutes or instruments having statutory force. It must also include all authorities whose activities are authorized by the Constitution. The definition of person given in art.102 (5) is inclusive and not exhaustive. By virtue of article 152, the definition of person and local authorities given in General clauses Act will be attracted. However in following circumstances no writ shall lie before Court. For instance because of the reason of exclusionary clause, no writ shall lie against a court or tribunal established under a law relating to the defense services or any disciplined force or a tribunal to which art.117 applies. However, writ petition will lie against the military authorities other than a court or tribunal of the specified kind.

### **Writ and Fundamental Rights**

Under the constitution, the High Court division has the power under article 102(1) to pass necessary orders to enforce fundamental rights and under article 44(1) the right to move the high court division under article 102(1) is itself a fundamental right. The position of the high court division in respect of enforcement of fundamental rights is the same as that of the Indian Supreme Court with the difference that its decision is not final and is subject to appeal under article 103. Thus it is not discretionary with the high court division to grant relief under article 102(1). Once it finds that a fundamental right has been violated, it is under constitutional obligation to grant the necessary relief <sup>[22]</sup>. Under article 32, the Indian Supreme Court entertains only disputes involving breach of the fundamental rights. If a person wants to challenge any state action on various grounds including breach of the fundamental rights, he shall have to seek the remedy under article 226 which is discretionary. Under the constitutional dispensation of Bangladesh, a petitioner does not have this problem, he can by one petition enforce his right under article 44 and at the same time press other ground of *ultra vires* in respect of a state action <sup>[23]</sup>. Article 102(1) of the Constitution empowers the High Court Division to give appropriate directions or orders to any person or authority for the enforcement of any of the fundamental rights. Persons performing functions in connection with the affairs of the Republic are also amenable to this jurisdiction of the High Court Division. However, there must be an application by an aggrieved person so that the High Court Division may pass an order or direction for the enforcement of a fundamental right. In the case of *Md. Shoib vs. Bangladesh* the petitioner, one of the three partners of a partnership firm, filed a writ petition at the High Court Division challenging the validity of a government order staying a proceeding for release and handing over possession of the said partnership to the petitioners which affected the petitioners fundamental right to freedom of profession or occupation contained in Article 40 of the Constitution. While disposing of the writ petition D.C. Bhattacharya J. observed: "Any person aggrieved by any order or act may move this court for relief against such order or act and the petitioner being very much affected by

the impugned order has every right to move this Court for necessary orders <sup>[24]</sup>."

If the infringement of fundamental right is established, the enforcement of the fundamental right becomes obligatory upon the High Court Division and exhaustion of all other equally efficacious remedy provided by law is not necessary.

The Constitution does not mention the relief which may be granted to redress the violation of fundamental rights. It has been left to the High Court Division to fashion the relief according to the circumstances of particular cases. It may be one injunctive relief preventing the infringement of fundamental right or it may be a direction or order including an order in the nature of various kinds of writs. In this context, the observations made by M.A. Jabir, J., in *Bangladesh vs. Ahmed Nazir* to direct relevance: "We have, accordingly, no doubt that the framers of the Constitution intended to empower the High Court Division to pass appropriate orders .... and the power to do so is not at all fettered because of the absence of nomenclature of the nature of writ in the Constitution" <sup>[25]</sup>. It can be seen from the above discussion that the High Court either by an application by any aggrieved party or in its own initiative can issue writ to ensure proper protection of fundamental rights as enunciated in the constitution.

### **Public Interest Litigation (PIL)**

Public interest litigation means "a legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected," <sup>[26]</sup>

PIL is a "strategic arm" of the legal aid movement and is intended to bring justice within the reach of poor masses. Public Interest Litigation is a litigation that where the poor who, on account of their poverty, social disability or lack of awareness, cannot approach the court in case of the denial of their rights, any member of the public or social action group can approach the court on behalf of them. For this, a regular writ petition is not required to be filed through a lawyer, it maybe done even by addressing a letter to a judge of the court, though a "Public Interest Litigation", is filed in the same manner, as a writ petition is filed. It is a device to provide justice to those who individually are not in a position to have access to the courts. The time has now come when the courts must become the courts for the poor and struggling masses of this country. Fortunately, this change is gradually taking place and Public Interest Litigation is playing a large part in bringing this change <sup>[27]</sup>." In the 1990s the courts have gone a step further. They themselves have started taking note of certain issues on the basis of news paper reports or their information. This means that even when no one has filed a petition or approached the court, the courts itself initiates a case, pronounce a decision and directs the appropriate authorities to act accordingly.

### **Conditions for Public Interest Litigation**

Public Interest Litigation is not meant for enforcement of individual specific rights. The Supreme Court has also held that a person filing Public Interest Litigation should act bonafide and not for personal or private profit. Public Interest Litigation can also not be moved with political or other oblique motivation. Thus for filing Public Interest

Litigation, it is necessary that a personal filing a petition should not have private personal interest. It should be for general, social good and not for political gains or motives.

### Relevance of Public Interest Litigation

The emergence of the principles of Public Interest Litigation is justified on the basis of illiteracy, poverty, social and economic backwardness and lack of awareness of a large section of our population. These have denied millions of our people access to justice. Accordingly, the courts have been pronouncing on social issues. Through social action and litigation, the legal and judicial process is becoming a vehicle for providing remedy to those who are struggling to find protection of their interest.

### Who Can File Public Interest Litigation?

Earlier it was only a person whose interest was directly affected along with others, whereby his fundamental right is affected used to file such litigation. Now, the trend has changed, and, any Public-spirited person can file a case (Public Interest Litigation) on behalf of a group of person, whose rights are affected. It is not necessary, that the person filing a case should have a direct interest in this Public Interest Litigation<sup>[28]</sup>.

A Public Interest Litigation can be filed against the State, Municipal Authorities, and not against any private party. However, "Private party" can be included in the PIL as "Respondent", after making concerned state authority, a party<sup>[29]</sup>.

The rule of *locus standi* have been relaxed and a person acting *bonafide* and having sufficient interest in the proceeding of Public Interest Litigation will alone have a *locus standi* and can approach the court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration...court has to strike balance between two conflicting interests<sup>[30]</sup>.

### Writ as Public Interest Litigation

The formal exposition of PIL for which the activists were waiting for a long time came from the appellate division in 1996. The standing of the petitioner was seriously contested by the government in the appeal of Dr. Mohiuddin Farooque V Bangladesh / Sikander Ali Mondol V Bangladesh (FAP20)<sup>[31]</sup>. In the FAP 20, PIL was recognized as a special type of constitutional litigation under the Bangladeshi legal system. The activists greeted the positive outcome of the FAP20 judgment with much enthusiasm. It opened the gate for PIL and removed all doubts and confusions about the validity of PIL cases<sup>[32]</sup>. Since then various cases were filed such as in the matters relating to the functioning of the democratic process- Md. Idrisur rahman V Shahid Uddin Ahmed and Others<sup>[33]</sup>, Ziaur Rahman Khan v Bangladesh<sup>[34]</sup>, Saiful Islam Dildar V Bangladesh and others<sup>[35]</sup>. In the area of detention- Bilkis Akter Hussain V Bangladesh and others<sup>[36]</sup>, Md. Shahnewaz v Bangladesh<sup>[37]</sup>, in the genuine social interest matters- Sultana Nahar V Bangladesh and Others<sup>[38]</sup>, Dr. Mohiuddin Farooque V Bangladesh<sup>[39]</sup>. The number and variety of cases indicate the progression of PIL towards maturity as PIL has become a permanent feature of the Bangladeshi Legal System<sup>[40]</sup>. It is pertinent to mention here that these PIL cases were filed in the format of a writ petition and the remedies sought were under the nature of

Habeas Corpus, Mandamus, Certiorari, Quo Warranto and prohibition. Hence it can be said that it is a new dimension of seeking relief using the old format so that the right of the people can be protected more expeditiously.

### Recommendations

The judicial power of the Republic is vested in the judiciary consisting of the Supreme Court and the Subordinate courts. The guardianship of the Constitution is vested upon the Supreme Court, which is invested with the power of judicial review. The High Court Division of the Supreme Court is overburdened with all kinds of civil/criminal suits, including writ cases. In our country the writ petition can be filed only in the High Court Division which is situated in Dhaka. But it is troublesome for the people who live in rural area to come to Dhaka and file a writ petition in the High Court division. So it would be better to confer the writ jurisdiction to every District Judge Court like as India. This will not be unconstitutional as Article-44(2) declares, without prejudice to the powers of the Supreme Court under Article-102, Parliament may by law empower any other court, within the local limits of its jurisdiction, to exercise all or any of these powers<sup>[41]</sup>. Some of the Writs of Habeas Corpus can be delegated to District Judges. Many of the Writs of Habeas Corpus are simple, such as the case of Sardar Begum v. Habib Shah Khan<sup>[42]</sup>. A person can be arrested in remote areas outside the capital. In such situation, it will be better if a District Judge, where a person is arrested, issues the writ of Habeas Corpus. Some of the Jurisdiction of Writ of Mandamus can be delegated to District Judges when the case is simpler and when it involves an order upon any statutory public authority of a lesser status or of any inferior tribunal such as the case of Md. Abdul Mannan Bhuiyan v. University of Rajshahi & Others<sup>[43]</sup>. Some jurisdiction regarding Writ of Prohibition can be delegated to District Judges, where it involves an order upon a statutory public authority of a lesser status such as the case of Abdul Latif v. Govt. of West Pakistan<sup>[44]</sup>.

At present the writ petition can filed only against the Government/public bodies. It will be more effective to protect the fundamental rights if Writ Petitions can be filed against individuals as well. Article 102 of our Constitution uses the term 'any person aggrieved'. It does not use the expression as "aggrieved party" or "any person personally aggrieved". So, the Supreme Court of Bangladesh should expressly come forward to allow PIL<sup>[45]</sup>.

Sri Lanka and Pakistan—these two neighboring countries have, although they have same Constitutional constraints as we have in our Constitution, already overcome the barricade of 'aggrieved person' and they are now widely allowing PIL<sup>[46]</sup>. The approach of the court about PIL requires rethinking and restructuring. Overuse and abuse of PIL will make it ineffective. Hence, any change to improve it further should be encouraged and welcomed. The PIL should not be merely a cloak for attaining private ends of a third party or of the party bringing the petition. The court should examine the previous record of public service rendered by the organization bringing PIL. Before entertaining a writ petition and passing any interim orders in such petitions, the court must carefully weigh conflicting public interests. Only when it comes to a conclusion that there is overwhelming public interest in entertaining the petition, the court should intervene. Even when public interest litigation is entertained, the court must be careful to weigh conflicting

public interests before intervening.

### Conclusion

“Injustice anywhere is a threat to justice everywhere” [47].

A system of law, without effective remedies either fails in its mission or serves very little purpose. An effective system of remedies would also serve no good purpose unless there is a vast awareness of the existence and availability of those remedies. Out of all legal remedies, writ is a very important piece of legal remedy against arbitrary administrative action. If proactive approaches are taken to the practical modification in the existing system of Law of Writs in Bangladesh, it can be proved truly effective as a remedy to the public to guarantee their rights. Initially the development of Writ in Bangladesh was slow due the prolonged periods of Martial Laws and autocratic regimes that curtailed the fundamental rights and disrupted the normal functions of the judiciary. Once the democratic institutions had changed to operate the judiciary boldly re-asserted its proper constitutional role. As a result, progressive interpretations of the Constitution, including the development of PIL, became possible. The Supreme Court tackled the problem of access to justice by people through radical changes and alterations made in the requirements of *locus standi* and of party aggrieved. Public Interest Litigation as it has developed in recent years marks a significant departure from traditional judicial proceedings. The court is now seen as an institution not only reaching out to provide relief to citizens but even venturing into formulation of policy which the state must follow.

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