

PILER and Public Interest Litigation

PILER, a labour resource centre, has been in the forefront of labour and human rights advocacy, research and education since the last three decades. Over the years PILER has trained thousands of workers on how to access legal rights at workplace. It has reached out to policy-makers and legislators with research and analyses pushing for egalitarian policies and legislative reforms. One of the tools that PILER has used in recent years to support deprived workers and communities is public interest litigation.

In Pakistan public interest litigation is invoked under the Article 184(3) and Article 199 of the Constitution. These articles empower the superior judiciary to enforce fundamental rights and ensure compliance with the rule of law.

Through public interest litigation, PILER seeks to give voice and agency to marginalized sections of society, facilitate access to fundamental rights guaranteed by the Constitution and push the State to remedy the situation arising out of violation of constitutional and legal rights. PILER initiates public interest litigation in collaboration with like-minded civil society groups and individuals. PILER has a pool of dedicated lawyers who provide *pro bono* services in the larger public interest.

Constitutional Petitions filed in the Sindh High Court

1. C. P. No.4044/2011: Right to Education (December 2011)

After the passage of the 18th Amendment to the Constitution in 2010, the reformed Constitution now contains Article 25 (A) which makes the right to education a fundamental right. The state is now under constitutional obligation to provide free and compulsory education to all children of age five to sixteen.

In the context of low budgetary allocation to education, high drop-out rate and lack of adequate facilities, PILER, along with eight other petitioners (Aurat Foundation, Pakistan Fisherfolk Forum, South Asia Partnership-Pakistan, The Institute of Social Movements Pakistan, Bonded Labor Liberation Front, Bright Education Society, National Trade Union Federation Pakistan, and Abid Suleri), filed a petition in Sindh High Court on 17 December 2011, seeking legal intervention to ensure implementation of the constitutional guarantee for free and compulsory education to children of age 5 to 16. The petition specifically asked for a Commission to formulate out a strategy, implement the plan and make sure every child in the province has access to 10 years of schooling.

On 13 March 2013 the Sindh Right of Children to Free and Compulsory Education Act 2013 was promulgated on the orders of the Sindh High Court. The law mandates the private schools to provide free education to at least 10 percent students of their total strength and bounds the Sindh government to monitor inflated fees charged by the schools. A committee, Local Education Group, was constituted which held irregular meetings. This piece of legislation has resulted in view of the pressure generated due to the public interest litigation. The case is still pending. Since December 2011 till March 2016, the court was moved 35 times for hearing. The judges of the 2-member Bench were changed eight times.

2. C. P. No. 3318/2012: Baldia Factory Fire (September 2012)

On 11 September 2012 a fire erupted in a garments factory in Baldia Town Karachi and 256 workers were burnt to death as they could not be rescued because there was no fire escape in the building and the main exit was locked from outside.

PILER, along with Pakistan Fisher Folk Forum, National Trade Union Federation, Hosiery Garments Workers Union, Human Rights Commission of Pakistan, and legal activist Javed Iqbal Burki, filed a constitutional petition in the Sindh High Court against the factory owners, relevant state officials and the accrediting agencies RICA and RINA for non-compliance of laws.

The petition called for the constitution of a judicial commission to determine the causes of the fire and deaths of 256 workers, assign responsibility and determine/ensure compensation for the families of the victims. The petition also asked the court to direct the authorities to submit a report on health and safety status of all the factories in Karachi. A criminal trial against the main accused was asked to be initiated. Subsequently, the owners of Ali Enterprises were charged under the Criminal Procedure Code 1898, Section 493. The owners were arrested and put behind bars. After five months they got out on bail.

In January 2013, PILER filed another petition against the Investigation Officer who removed the murder charges from the FIR lodged against the owners of the factory, allegedly on the behest of the then Prime Minister Raja Pervez Ashraf. The petition demanded that the PM should have no authority in the court proceedings of the case. In April, PILER filed a third petition demanding that compensation be distributed to the next of kin if the legal heir did not survive. The German company, KiK Textilian, paid immediate relief compensation to the affected workers and families. On PILER's request, Sindh High Court formed a commission, headed by a former Supreme Court Judge, to distribute the compensation paid by the KiK Textilian to the victims and heirs. By January 2015 the judicial commission ordered distribution of PKR 500,000 650,000 for each deceased person family.

Three Inquiries had been conducted in the Baldia factory fire case: i) inquiry conducted by a committee of Police Officers; ii) FIA Inquiry; iii) judicial inquiry by a retired Judge of the Sindh High Court. In these inquiries, the issue of the fire being caused by sabotage for extortion reasons was looked into and rejected as a cause of the fire.

3. C.P. No. 1181/2014: Thar Tragedy (March 2014)

Prone to droughts, Tharparkar is one of the poorest and least developed districts in Sindh. The gravity of food insecurity, malnutrition and lack of basic health facilities in Tharparkar district was exposed in March 2014 with the news of the deaths of over 200 people, mostly children and women.

PILER, in collaboration of Pakistan Fisherfolk Forum and activist Javed Iqbal Burki, filed a petition in Sindh High Court on 11 March 2014, seeking justice and enforcement of fundamental rights for the victims, the survivors and their families. The petitioners asked the court to intervene and direct the government to conduct an investigation into the ongoing Tharparkar tragedy, assign responsibility and criminal liability of persons, pay compensation to the affected families and

establish a Commission to monitor the Sindh Government's constitutional obligation to implement the right to food of the citizens and persons living in Sindh.

The Sindh Commission constituted an inquiry commission in April 2014 to probe negligence in handling the drought that led to deaths people, mostly children. The inquiry commission released its report in October 2014 that held the Sindh Health Department and elected representatives of the area responsible for criminal negligence.

In December 2014, the Sindh government formed a 2-member commission to probe the tragedy in Thar. As the commission did not have any expert from civil society, it was discredited through an appeal filed by the PILER and de-commissioned by the Sindh High Court in early 2015.

In February 2016, the Sindh government formed the second Judicial Commission comprising three members: Dr Tipu Sultan, Dr. Sono Khangrani and DG Provincial Disaster Management Authority Commander (R) Salman Shah. The Commission submitted its report in April 2016 and recommended several immediate measures including thorough monitoring of all departments and formulation of a comprehensive nutrition and drought policy.

4. C.P. No. D-3885/2015: Deaths from Heat Wave (July 2015)

In June 2015, southern Pakistan, particularly the Sindh province was struck by a heat wave with temperature rising up to 49 degree centigrade. About 2000 people, mostly in Karachi, died of dehydration and heat stroke and over 40,000 people treated in the hospitals for heatstroke. The heavy death toll from the heat wave, a phenomenon related to climate change, was a result of widespread failures of the electrical grid and lack of preparedness of civil authorities to address the emergency.

PILER, along with Shahzad Roy, Nazim Fida Hussain Haji, Urban Resource Centre, National Organization for Working Communities and Workers Education and Research Organization filed a petition in the Sindh High Court against various departments of the Sindh Government, the Provincial Disaster Management Authority, the National Electric Power Regularity Authority and the K-Electric Supply Company Ltd. The petitioners sought the Court's intervention to declare the right to electricity as a fundamental right, constitute inquiry in to the role of various departments, regulatory authority (NEPRA) and K-Electric in relation to the lack of supply of electricity and/or load-shedding during the heat wave.

After the filing of the petition, Sindh government constituted a fact finding committee which submitted its report. A show-cause notice was issued to the K-Electric. The Ministry of Climate Change issued a technical report on the heat wave in July 2015. The petition kept the government authorities on their toes on this issue.

In March 2016, NEPRA imposed a fine of Rs 10 million on K-Electric for failure to provide uninterrupted electric power services to its consumers and deliberate under-utilization of its generation capacity. In April, a comprehensive Heat Wave Emergency Plan 2016 was submitted at the Sindh High Court by the provincial and local government authorities during a hearing of identical petitions seeking judicial probe into the deaths from heat wave.