
PUBLIC INTEREST LITIGATIONS (PILs) IN INDIA: A BENEFICIAL EXAMINATION OF FACTORS AND EFFECTS

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ABSTRACT

The introduction of Public Interest Litigations (PIL) in India draws its inspiration from American Jurisprudence and was established with the noble intention of providing legal representation to underprivileged sections of society, such as the economically disadvantaged, racial minorities, and those genuinely committed to addressing public concerns. This concept in the Indian context pertains to legal actions initiated to address issues with potential broader community impacts. The hon'ble Courts have played a pivotal role in addressing diverse social concerns through PILs, including labour-related challenges, child welfare, minimum wage violations, environmental degradation, violence against women, and food security.

PILs in India have gained prominence through evolving judicial interpretations over time, despite the absence of explicit constitutional or statutory definitions. Their popularity is rooted in the empowerment of the public through judicial activism. This is particularly significant in densely populated India, where PILs enable individuals to approach the Hon'ble Courts, even when not personally aggrieved. However, petitioners must convincingly demonstrate that their filings genuinely represent broader public interests and are not driven by personal motives.

I. UNVEILLING THE SIGNIFICANCE OF PILs IN INDIA: A PERSPECTIVE THROUGH JUDICIAL INTERPRETATIONS.

During the post-emergency period, PILs gained significant prominence, providing a powerful means for marginalized segments of society to assert and uphold their fundamental rights. A pivotal moment in the history of PILs in India occurred in 1979 with the *Hussainara Khaton v. State of Bihar*² verdict. This case was initiated by an independent advocate in response to a news report published in the widely circulated Indian Express newspaper, highlighting the deplorable conditions endured by prisoners and undertrial detainees. Remarkably, after this petition over 40,000 undertrial prisoners were released. They had been languishing in Bihar's jails.³ Similarly, in 1991, *Anil*

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² *Hussainara Khaton v State of Bihar*, A.I.R. 1979 S.C. 1360.

³ Zafar A. Khan, *Public Interest Litigation: A Tool for Providing Ends of Justice*, 20 ALJ (2012-13) at 271, 273.

*Yadav v. State of Bihar*⁴ saw the Honourable Supreme Court addressing instances of police brutality as exposed by a news report. Furthermore, in the case of *Citizen for Democracy v. State of Assam*⁵, The Supreme Court took a firm stance against the forcible use of handcuffs and restraints on prisoners, whether within jails, during transport, or while moving between different correctional facilities or court appearances.⁶

Traditionally, the right to seek legal redress from the Hon'ble Courts for violation of rights enshrined in Part Three⁷ of the constitution belonged exclusively to the aggrieved party. However, a significant turning point occurred in 1981 when Justice P.N. Bhagwati delivered a groundbreaking judgment in *S.P.Guptha v. UOI*⁸. In essence, the judgment asserted that if a legal wrong, injury, constitutional or legal rights violation, or an undue burden is imposed, and the affected individual or group is unable to access the court due to factors like poverty, helplessness, disability, or disadvantage, every public member can file an application in the Hon'ble High Court⁹ or in The Apex Court¹⁰ to seek redress for such violations of rights conferred under part three of Indian Constitution. This landmark judgment effectively liberalized the concept of locus standi, enabling individuals with genuine intentions to seek legal remedies in cases of public interest. Furthermore, in *Ashok Kumar Pandey v. State of W. B*¹¹, the Apex Court ruled that "the requirements for relaxed locus standi, and a person with a genuine interest in the PILs proceedings will be granted locus standi to approach the court to address fundamental rights infringement and legitimate breaches of statutory provisions, provided that the motive is not personal gain, private profit, political agendas, or any other ulterior considerations."

In addition to public interest cases, instances involving private interests can also be classified as PIL. One such example is the case of *Indian Banks' Association, Bombay v. Devkala Consultancy Service*¹². In this case the Honourable Supreme Court observed that, in certain cases, when a petitioner files a suit for personal redress where the interest

⁴ Anil Yadav v State of Bihar, A.I.R. 1982 S.C. 1008.

⁵ Citizen for Democracy v State of Assam, (1995) 3 S.C.C. 743.

⁶ *Supra* note 2, at 274.

⁷ INDIA CONST. art. 32.

⁸ S.P. Gupta v Union of India, 1981 Supp S.C.C. 87.

⁹ INDIA CONST. art.226.

¹⁰ INDIA CONST.art.32.

¹¹ Ashok Kumar Pandey v State of W.B. (2004) 3 S.C.C. 349.

¹² Association, Bombay v Devkala Consultancy Service, (2004) 4 S.C.C. 587.

is private in nature, the court may find it necessary to investigate the litigation's subject, turning a case of private interest into a public interest case. Another notable case, *Sunil Batra v. Delhi Administration*¹³, commenced when a prisoner sent a letter directly to a Supreme Court judge, describing the harsh treatment suffered by another inmate at the hands of the Head Warden.¹⁴

In 2010, during the *State of Uttaranchal v. Balwant Singh Chauhan*¹⁵ case, the Apex Court delineated the evolution of such litigations of public interest into three distinct phases. Initially, the court's focus was on issuing orders to safeguard the rights of marginalized groups who were unable to directly approach the court. Subsequently, in the next phase, the court shifted its attention towards addressing environmental and wildlife-related issues. Finally, in the third phase, the court placed a strong emphasis on promoting good governance.¹⁶ This evolution can be illustrated with specific cases. For instance, *Hussainara Khaton v State of Bihar*¹⁷ and *Bandhua Mukti Morcha v. Union of India*¹⁸ can be attributed to the first phase, where the court championed the causes of disadvantaged groups. As for the second phase, an example would be *T.N. Godavarman Thirumulpad v. UOI*¹⁹ case. In the third phase, the *Vineeth Narain v. UOI*²⁰ case serves as a quintessential example of the court's commitment to ensuring good governance.²¹

Indeed, the consequential implications and circumstantial interpretations of the Apex Court in the realm of PIL have had a profound and far-reaching influence on our society. Regardless of their social and economic backgrounds, individuals started presenting themselves before the court, seeking protection of their rights. This, in turn, fostered a heightened level of confidence among the general populace in the Indian judicial system.

II. KEY FACTORS BEHIND THE POPULARITY OF PILs IN INDIA.

¹³Sunil Batra v Delhi Administration, (1978) 4 S.C.C. 494.

¹⁴Supra note 2, at 275.

¹⁵State of Uttaranchal v Balwant Singh Chauhan, (2010) 3 S.C.C. 402.

¹⁶Chintan Chandrachud, Anticorruption by Fiat: Structural Injunctions and Public Interest Litigation in the Supreme Court of India, 14 Socio-Legal Rev. (2018) at 169, 174.

¹⁷Hussainara Khaton v State of Bihar, A.I.R. 1979 S.C. 1360.

¹⁸Bandhua Mukti Morcha v Union of India, (2000) 9 S.C.C. 322.

¹⁹T.N. Godavarman Thirumulpad v Union of India, (1997) 2 S.C.C. 267.

²⁰Vineeth Narain v Union of India, (1998) 1 S.C.C. 226.

²¹Supra note 13, at 175.

Several factors drive the increasing prevalence of PILs in India. These include the provisions of Art. 32 and 226 in the Constitution, progressive social legislations, a liberal interpretation of locus standi, the petitioner's ability to file without concrete evidence, the unenforceability of Part IV of the Constitution, and the judiciary's commitment to assisting the disadvantaged. The impact of these factors on the field of PILs is explored below;

A. POWER GIVEN IN THE HANDS OF PEOPLE THROUGH ART. 32 AND 226 OF CONSTITUTION OF INDIA.

Art. 32²² and 226²³ grant citizens a significant mechanism, that is PILs. It serves as a symbol of the power vested with the common people. Through PIL, individuals in the nation are endowed with the unique privilege to seek recourse in the hon'ble Courts whenever their rights are infringed upon.²⁴

Consequently, individuals with a genuine interest in addressing public harm resulting from rights violations have the option to file a PIL for judicial redress,²⁵ under either Art. 32²⁶ or Art. 226²⁷. In cases involving Fundamental Rights violations, direct recourse to The Esteemed Apex Court under Art. 32 is permissible, bypassing the need to exhaust local remedies.²⁸

The distinction between Art. 32 in comparison with 226 in the context of PIL is subtle. Art. 32, itself being a fundamental right, allows citizens to directly petition the court, if rights specified in Part III of the Constitution get infringed, while Art. 226 provides people with the opportunity to seek legal recourse in cases involving the infringement of both fundamental and legal rights.²⁹

The esteemed Supreme Court and numerous High Courts in India have consistently entertained a wide array of³⁰PILs over the years. The proactive stance of these courts

²²INDIA CONST. art. 32.

²³INDIA CONST. art.226.

²⁴Filzah Belal, *ole of Public Interest Litigation in Advancing Fundamental Rights of Have-Nots in India*, 8 GJLDP, (2018), at 118, 119.

²⁵S.P. Gupta v Union of India, 1981 Supp SCC 87.

²⁶INDIA CONST. art. 32.

²⁷INDIA CONST. art. 226.

²⁸*Supra* note 19, at 120.

²⁹*Supra* note 19, at 120.

³⁰ T.N. Godavarman Thirumulpad v Union of India, (1997) 2 S.C.C. 267., Vineet Narain v Union of India, (1998) 1 S.C.C. 226., Bandhua Mukti Morcha v Union of India, (2000) 9 S.C.C. 322., Association, Bombay v

in facilitating PILs under both the provisions has played a significant role in the increasing trend of people from diverse sections of society approaching the Hon'ble Courts for safeguarding their rights. This approach has acted as a catalyst, encouraging a surge in PIL filings aimed at seeking redress for a range of grievances and injustices.

B. JUDICIAL PRUDENCE IN ADDRESSING PILs RELATED TO ACTIONS OF LEGISLATURE AS WELL AS EXECUTIVE.

The mechanism of PIL has evolved into a tool for judicial oversight and balance of government actions. Initially, it involved a relaxation of the legal concept known as 'locus standi,' in *Mumbai Kamgar Sabha v. Abdul Bhai*³¹ case. However, it later extended to the point where the Hon'ble Courts seemed to take on the functions assigned to be done by the legislature and executives, as observed in the *Bandhua Mukthi Morcha v. Union of India*³² case. This raises questions about the extent to which Indian Courts will utilize this concept and its impact on the well-established principle of the separation of powers enshrined in The Constitution³³ followed by India.

The system of judiciary found in India, particularly the Honourable Apex Court, happened to deliver numerous landmark decisions addressing a variety of social issues. These decisions have aimed at providing relief to undertrial prisoners³⁴, improving the conditions of women in protective homes³⁵, combatting human trafficking³⁶, facilitating the release and rehabilitation of bonded laborers, and promoting environmental protection³⁷. However, these instances suggest that the Court often found itself compelled to make these decisions due to shortcomings in government operations and a lack of diligence from the government's part.³⁸

The subsequent rulings of the Apex Court in cases like *Fertilizer Corporation Kamgar Union v. UOI*³⁹, *Free Legal Aid Committee, Jamshedpur v. State of Bihar*⁴⁰, *Rural*

Devkala Consultancy Service, (2004) 4 S.C.C. 587., *State of Uttaranchal v Balwant Singh Chauhal*, (2010) 3 S.C.C. 402. Etc.

³¹*Mumbai Kamgar Sabha v Abdul Bhai*, A.I.R. 1976 S.C. 1455.

³²*Bandhura Mukti Morcha v Union of India.*, A.I.R. 1984 SC 802.

³³N. Santosh Hegde, *Public Interest Litigation and Control of Government*, 4 *Student Adv* (1992) at 1.

³⁴*Hussainara Khatoon v State of Bihar*, A.I.R. 1979 S.C. 1360.

³⁵*U. Baxi v State of Uttar Pradesh*, (1983) 2 S.C.C. 308.

³⁶*Supra* note,27.

³⁷ *Rural Litigation and Entitlement Kendra, Dehradun v State of Uttar Pradesh*, A.I.R. 1985 S.C. 652.

³⁸*Supra* note 28, at 1.

³⁹*Fertilizer Corporation Kamgar Union v Union of India*, A.I.R. 1981 S.C. 344.

⁴⁰*Free Legal Aid Committee, Jamshedpur v State of Bihar*, A.I.R. 1982 S.C. 1463.

*Litigation and Entitlement Kendra, Dehradun v. State of U.P.*⁴¹, and *M.C. Mehthav.UOI*⁴² reflect the evolving scope of PIL in India. While recognizing that PIL has emerged as a means to improve the conditions of the disadvantaged masses in the country, it's important to acknowledge that the Judiciary alone cannot address all the problems faced by the underprivileged. This power execution of judiciary is subject to various limitations and constraints.⁴³

The prudence and circumspection exhibited by the Hon'ble Courts in upholding the separation of power's principle is exemplified in the Supreme Court's judgment in *State of H.P v. Parent of a Student of Medical College*⁴⁴. The Esteemed Supreme Court emphasized in this case that:

'Public Interest Litigation must be used judiciously, with the judiciary exercising caution to avoid overstepping the constitutional boundaries set for the Executive branch and the Legislature. While the executive branch and legislators have the prerogative to introduce legislation, the judiciary cannot compel them to do so, even if the Court deems it necessary or desirable. This falls outside the judiciary's constitutional role and responsibilities.'

Moreover, In the speech delivered by Sri. S.K. Agarwala regarding "PILs reported in India", he denoted that: 'If the Court were to enforce all such legislation on the pretext that non-enforcement constitutes violation of Art. 21, it might lead to virtually every state activity coming under the scrutiny of the Apex Court through PILs. This could potentially result in the Court assuming complete control of the country's administration, supplanting the Executive.'⁴⁵

The success of such litigations in the country is attributed to the public's confidence in the Judiciary. Excessive judicial intervention in the affairs practiced by executives and legislative bodies through PILs could draw the Judiciary into controversies. This could diminish the Judiciary's standing and dilute the essence of PIL. Hence, a prudent and restrained approach is essential, especially when dealing with PIL cases concerning legislative and executive actions.⁴⁶

⁴¹ Rural Litigation and Entitlement Kendra, Dehradun v State of Uttar Pradesh, A.I.R. 1985 S.C. 652.

⁴²M.C. Mehta v Union of India, (1987) 1 S.C.C. 395.

⁴³*Supra* note,28 at 4.

⁴⁴Himachal Pradesh v Parent of a Student of Medical College, Shimla and Others, A.I.R. 1985 S.C. 910.

⁴⁵*Supra* note, 28 at 5.

⁴⁶*Supra* note,28 at 5,6.

C. LIBERAL INTERPRETATION OF LOCUS STANDI, THE LEGAL CONCEPT

In various legal frameworks, particularly within the common and civil legal system, individuals are granted the right to bring their cases to The Court of Justice when they can establish a particular or distinct interest in the dispute or when they have endured, or are expected to endure, negative consequences resulting from the contested action. This legal concept is named "locus standi" or "standing to sue."⁴⁷ Prior to the advent of PILs, Indian Courts rigorously adhered to the concept of locus standi, which, in practice, restricted their engagement with the myriad issues confronted by the disadvantaged masses in India.⁴⁸

However, in *Mumbai Kangaar Saba, Bombay v. AbdulbhaiFaizzullabhai and Others*⁴⁹ case, the Apex Court observed that, 'In our current socio-economic context, the promotion of public interest is facilitated by a broad interpretation of the locus standi percept. Embracing a more flexible approach allows for individualization of legitimacy to quest for recourse in higher courts, especially when a substantial number of individuals, particularly those who are more vulnerable, stand to benefit from the remedy.'⁵⁰ Presently, the strictness of the "locus standi" requirement in public interest litigations is notably relaxed.

Taking a significant stride in legal benchmark, in *Sunyl Bathra v. Delhi Administration*⁵¹, The Supreme Court embraced a noteworthy departure from conventional norms. It responded to a letter penned by a prisoner to a Judge of the Court by completely discarding the usual "locus standi" principle. The Hon'ble Court chose to recognize the letter as a formal Writ Petition, as per Art.32 of the constitution. subsequently issuing specific directives and mandates.⁵²

⁴⁷R.K. Salman and O.O. Ayankogbe, Denial of Access to Justice in Public Interest Litigation in Nigeria: Need to Learn from Indian Judiciary, 53 JILI (2011) at 594, 596.

⁴⁸*Supra* note, 28 at 2.

⁴⁹*Mumbai Kangar Sabha, Bombay v. AbdulbhaiFaizzullabhai and Others*, A.I.R. 1976 S.C. 1455 at p. 1458.

⁵⁰*Supra* note, 28 at 2.

⁵¹*Sunil Batra v Delhi Administration*, (1978) 4 S.C.C. 494.

⁵²*Supra* note, 28 at 2.

In 1981, a seven-judge panel within the S.C., in *S.P.Gupthav.UOI*⁵³, notably eased the constraints associated with the "locus standi" principle. In this landmark decision, the Apex Court ruled that, when a legally wrongful act or injury arises due to the violation of any right, either constitutional or legal, instead when a burden is imposed contrary to legal provisions, and individuals are unable to seek relief due to poverty, helplessness, disability, or social and economic disadvantage, one or more fellow of the population can file an application for appropriate remedies in the Higher or Supreme Court.

Although the judiciary has relaxed the constraints of "locus standi," it exercises caution in its selection of petitions. The Hon'ble Supreme Court underscores that it cannot entertain every petition and emphasizes the importance of evaluating the petitioner's "locus" or legal standing before accepting a case.⁵⁴ As the boundaries of PILs are extended to uphold the rightfulness of the populace, it is equally crucial to assess the admissibility of such petitions to verify their sincerity. Distinguishing PILs with malicious intent is a paramount task, as it ensures that genuine cases deserving the Court's consideration are not overshadowed by those with ulterior motives.⁵⁵

D. OTHER FACTORS

Beyond the factors mentioned above, numerous other elements have significantly contributed to the increasing prominence of public interest litigations in India. Among these, due to the diversity in social legislations found in India,⁵⁶ PILs have addressed a variety of socio-economic issues. Public interest litigations in India have achieved remarkable progress in areas such as ensuring food availability, access to clean air, safe working conditions, political representation, affirmative action, anti-discrimination measures, and the regulation of prison conditions, among others.⁵⁷

India's codified constitution, with its comprehensive framework of Part three⁵⁸ and DPSP⁵⁹, serves as a cornerstone for regulating the intricate dynamics between the

⁵³S.P. Gupta v Union of India, 1981 Supp. S.C.C. 87.

⁵⁴R&M Trust v Koramangala Residents Vigilance Group, (2005) 3 S.C.C. 91.

⁵⁵*Supra* note, 28 at 2.

⁵⁶Dr. (Mrs.) Saroj Bohra, Public Interest Litigation: Access to Justice., Manupatra, at 1,4.

⁵⁷Konakuppakatil Gopinathan Balakrishnan, Singapore Academy of Law Annual Lecture 2008: Growth of Public Interest Litigation in India, 21 SAclJ, (2009) at 1, 11.

⁵⁸INDIA CONST. art. 12 to art. 35.

⁵⁹INDIA CONST. art. 36 to art.51. (Directive Principles of States Policy).

government and its citizens.⁶⁰ Excessive complexity within these provisions might inadvertently result in government overreach or citizen discontent. Nevertheless, the ingenious inclusion of PIL in the legal system empowers citizens to access the judiciary and secure practical remedies. This visionary provision has not only bolstered the widespread adoption of Litigations for public Interests in India, but has also solidified a pivotal pathway towards justice and accountability for all.

Judges have consistently shown a commitment to assisting marginalized groups in their approach to Public Interest Litigations (PILs). In the *Bandhura Mukti Morcha*⁶¹ case, the hon'ble Supreme Court placed the burden of proof on the respondents, establishing a precedent where every instance of forced labour was presumed to be a case of bonded labour unless the employer could demonstrate otherwise. Similarly in a notable judgement⁶², Justice Bhagavathi ruled that individuals receiving wages below the minimum wage threshold could directly approach the Supreme Court, bypassing the need to go through the labour commissioner and labour court.⁶³

Moreover, In PILs, petitioners are not obligated to furnish evidence, either due to its unpredictable nature or because of interpersonal and fiscal limitations.⁶⁴

It is the convergence of these factors that has played a role in enhancing the popularity of PILs in India.

III. THE MULTIFACETED INFLUENCE OF PILs ON SOCIAL ISSUES

The following analysis aims to comprehensively understand how PILs have effectively addressed an extensive assortment of social issues over the course of time.

- Pertaining to the **issues relating to labour**, In the *Kalyan Eshwariv.UOI*⁶⁵ case, the Apex Court tackled health hazards in the workplace. It emphasized safeguarding the Right to a Clean Environment for workers and struck a balance between Art. 19(1)(g) and Art. 21 by advocating improved supervision and regulatory control to protect labour rights, rather than banning the industry.⁶⁶

⁶⁰Supra note, 51 at 8.

⁶¹Bandhura Mukti Morcha v Union of India, A.I.R. 1984 SC 802.

⁶²People's Union for Democratic v Union of India & Others, 1982 A.I.R. 1473.

⁶³Supra note, 51 at 9.

⁶⁴Supra note, 51 at 9.

⁶⁵Kalyaneshwari v Union of India (2011) 3 S.C.C. 287.

⁶⁶Supra note, 19 at 125.

Similarly, The Preeminent Court has extended labour welfare to encompass the unorganized sector and directed protection to inalienable rights of workforce in cases involving similar hazards. A notable instance is the *National Campaign Committee v. Union of India*⁶⁷ case.

- While numerous cases have focused on **environmental protection**, unfortunately, this has not resulted in a decrease in environmental hazards. Lately in *Arjun Gopal v. UOI*⁶⁸, The Hon'ble Supreme Court has tackled the issue of firecracker use during Diwali, given the persistent increase in pollution levels across the country, particularly in the capital city. In the same vein, In *Tirupur Dyeing Factory Owners' Assn. v. Noyyal River Ayacutdars Protection Assn.*⁶⁹ case., the pollution of the Noyyal River came under scrutiny.
- Regarding **Prisoner's rights**, The Apex Court once observed⁷⁰ that, it's imperative to protect the next of kin from experiencing custodial deaths. The State and Central government must ensure the proper implementation of a victim compensation scheme. It's essential to understand that the compensation, while valuable, may not completely reflect the severity of the humiliation and mistreatment endured by the prisoners.⁷¹ Further in *Gangadhar Behera v. State of Orissa*⁷² case The court made a commendable effort to safeguard not only the wrongdoers but also all the other parties involved during the process of investigation.
- In the case of *Indian Young Lawyers Assn. v. State of Kerala*⁷³ while dealing with the aspects of **Gender Equality**, The Apex Court's decision emphasized the women's essential right to freely practice their faith and worship the deity of their preference. Consequently, it ruled in favour of permitting women to enter the Temple named Sabarimala (Kerala), without any restrictions. In a multitude of other cases⁷⁴, the Hon'ble Court notably underscored the paramount importance of gender equality.

⁶⁷ National Campaign Committee v. Union of India, (2009) 3 S.C.C. 269.

⁶⁸ Arjun Gopal v Union of India, (2017) 1 S.C.C. 412.

⁶⁹ Tirupur Dyeing Factory Owners' Assn. v Noyyal River Ayacutdars Protection Assn., (2009) 9 S.C.C. 737.

⁷⁰ Re- Inhuman conditions in 1382 prisons, (2017) 10 S.C.C. 658.

⁷¹ *Supra* note, 19 at 129.

⁷² Gangadhar Behera v State of Orissa, (2002) 8 S.C.C. 381.

⁷³ Indian Young Lawyers Assn. v State of Kerala, (2016) 16 S.C.C. 810.

⁷⁴ Gaurav Jain v Union of India, 1990 Supp. S.C.C. 709; AIR 1990 SC 292. Budhadev Karmaskar v. State of W.B., (2011) 10 S.C.C. 354.

- The Highest court at certain instances⁷⁵, has also addressed **matters concerning the LGBTQ community.**

Thus, PILs in India has had a far-reaching impact on various social issues, serving as a significant force for social reform.

IV. CONCLUSION

The increasing use of PILs has instilled fresh hope among those who have suffered from administrative injustices and government negligence, as it fosters participative justice. PILs surfaced as the means for marginalized individuals to assert their rights when they are violated. Ensuring that all segments of society can avail themselves of this tool to vindicate their rights is a constitutional duty of the judiciary.

Undoubtedly, the judiciary, over the course of its history of PILs, has addressed issues pertaining to numerous disadvantaged groups whose rights require enforcement. Nonetheless, there is still a considerable distance to traverse.

⁷⁵National Legal Services Authority v Union of India, (2014) 5 S.C.C. 438., K.S. Puttaswamy v Union of India (2017) 10 S.C.C. 1.