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Public Interest Litigation Development and Operation in India and Suggestions for Vietnam

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Abstract

The article focuses on a comprehensive and in-depth analysis of the mechanism Public Interest Litigation (PIL) in India, one of the most unique judicial innovations of Common Law in the 20th century. The development and operation of PIL in India is a typical example of the proactive role of the judiciary in addressing social issues and controlling state power. The development and operation of PIL in India is a typical example of the active judicial role in

addressing social issues and controlling state power. This article provides an overview of PIL in India, analysing typical legal regulations and judicial practices, while also proposing legal lessons that could inspire the establishment of a similar mechanism in Vietnam to improve the public interest protection system in Vietnam, aiming for a humane, accessible, and effective judiciary.

Keywords: Public Interest Litigation, Public Interest Cases, Public Benefit, India, Vietnam

1. Introduction

In traditional legal science, especially in Common Law, the right to access justice is closely bound by the principle of locus standi. This principle stipulates that only individuals who suffer direct, specific, and distinct harm have the right to file a lawsuit in court. However, this adversarial system has revealed serious limitations when applied to broader social issues such as environmental pollution, consumer protection, or the rights of marginalised groups, where the damage is often widespread and victims typically lack the resources to pursue individual lawsuits.

India, a country with many socio-economic similarities to Vietnam, has undergone a legal revolution since the late 1970s through the PIL mechanism. The advent of PIL is one of the key components of the approach of “judicial activism” that is attributed to the higher judiciary in India. The Courts’ interventions have played a pivotal role in advancing the protection of civil liberties, the rights of workers, gender justice, accountability of public institutions, environmental conservation and the guarantee of socio-economic entitlements such as housing, health and education among others.¹ PIL has altered India’s legal map by turning an elite-only system into a powerful way to achieve social justice. This groundbreaking legal tool has made

¹ The Honourable K G Balakrishnan Chief Justice of the Supreme Court of India (2008), “*Annual Lecture 2008: Growth of Public Interest Litigation in India*”, access date 10/11/2025: <https://sal.org.sg/articles/annual-lecture-2008-growth-of-public-interest-litigation-in-india/#>

justice accessible to millions of disadvantaged Indians through simpler procedures and flexible rules.² For Vietnam, studying this model is urgently relevant in the context of the National Assembly recently passing Resolution No. 205/2025/QH15 on piloting the People's Procuracy to initiate civil lawsuits to protect the civil rights of vulnerable groups or to safeguard public interests. This article will analyse the operational mechanism of PIL in India and draw lessons for the process of perfecting the judicial institution in Vietnam.

2 Overview of Public Interest Litigation in India

2.1 History of Formation

The concept of PIL is borrowed from the American jurisprudence where it was framed to provide legal aid representation to the unprivileged as well as unrepresented sections of the society. It originated in the United States in mid-1980s. PIL in the US was the result of various movement for free legal aid observed since the nineteenth century.³ The PIL mechanism was formed in the late 1970s, in the context of Indian society experiencing significant inequalities and human rights violations following the "Emergency Rule" period (1975–1977).⁴

The emergence of the concept of PIL in India can be said to be brought by Justice Krishna Iyer through the judgment *Mumbai Kamagar Sabha v. Abdul Thai* in the year 1974 where the writ petition of an unregistered association of workers was permitted by court for redressal of a common problem under Article 32. It is to be the first PIL filed in India.

Pioneering judges like Justice V.R. Krishna Iyer and Justice P.N. Bhagwati expanded the understanding of locus standi, allowing "any citizen with a bona fide intention to protect public interest" to file a lawsuit. In the landmark case *S.P. Gupta v. Union of India* (1982), Justice Bhagwati affirmed: "I have no hesitation in holding that any member of the public... acting bona fide can move the Court." "I have no hesitation in holding that any member of the public... acting bona fide can move the Court." This is considered a constitutional turning point in Indian judicial thinking – when citizens became co-creators of justice. Since then, a series of famous lawsuits such as *Hussainara Khatoon* (on prisoners' rights), *Bandhua Mukti Morcha* (on forced labour), and *M.C. Mehta* (on the environment) have

expanded the scope of PIL from human rights and labour to environmental and public governance issues.

2.2 Some landmark judgment of public interest litigation which brought a remarkable change in India.

Kesavananda Bharati v. State of Kerala (1973): The Supreme Court used the "basic structure" of the Constitution to give the historic *Kesavananda Bharati* ruling in 1973. The Supreme Court decided that the fundamental rights guaranteed by Part 3 of the Constitution can be changed by Parliament. The Supreme Court held that Parliament did not have the authority to change the Constitution's original structure, even while it upheld Parliament's authority to change fundamental rights. This restrained the legislature's and the executive branch's needless modification of fundamental rights as well as the unchecked authority of Parliament.

Hussainara Khatoon v/s State of Bihar (1979): This is a case of judicial activism in the history of India in which the Supreme Court ruled on the right to life.⁵ Advocate Pushpa Kapila Hingorani brought a PIL in 1979 to protest the cruel treatment of prisoners awaiting trial in the state of Bihar. In this instance, the Supreme Court made it clear that Article 21's guarantees of life and personal liberty had been violated. While the executive had acted dishonestly, the judiciary not only ordered the release of incarcerated undertrial inmates but also demonstrated humanity. Equal justice, the necessity of legal services, and fair trials were all represented in the ruling.

Vishaka v/s Rajasthan case (1997): This case was filed in the Supreme Court of India by an NGO (on behalf of a woman, who was brutally raped at her workplace) for the protection of rights of women at their workplace.⁶ In the Supreme Court, an NGO called Vishaka filed a PIL against the police for failing to file a complaint and look into the savage gang rape of Bhanvari Devi, a social worker who was trying to stop child marriage. After hearing the case, the Supreme Court issued a ruling in 1997 and took action to safeguard women in the workplace. It discovered that the Constitution's Articles 14, 19, and 21 were being broken at work and gave the government instructions. The "Vishaka Guidelines" are what they are called. A law protecting women from sexual harassment and assault at work was passed by the Central Government in 2013.

M.C. Mehta v/s Union of India case: The *M.C. Mehta* case is a historical landmark in environmental law. In this ruling, the Supreme Court placed limitations on Delhi's environmental contamination brought on by gas leaks from dangerous sectors. The court was made aware of the harm

² Shibayan Chattopadhyay (2024), "Public Interest Litigation in India: The role of The Supreme Court in Shaping India's Legal and Social Landscape", International Journal of law management & humanities, Volume 7, Issue 6, page 2232, access date 10/11/2025 <https://ijlmh.com/wp-content/uploads/Public-Interest-Litigation-in-India.pdf>

³ Pratyush Jah (2020), "Genesis and Growth of Public Interest Litigation in the Indian Legal System", International Journal of law management & humanities, Volume 3, Issue 3, page 1606, access date 10/11/2025: <https://ijlmh.com/wp-content/uploads/Genesis-and-Growth-of-Public-Interest-Litigation-in-the-Indian-Legal-System.pdf>

⁴ Gauri, V. (2009). *Public interest litigation in India: Overreach or a tool for justice?* (Policy Research Working Paper No. 5109). World Bank.

⁵ Dr. Shivarudrappa H S (2024), "The role of judicial activism in India a study", ShodhKosh: Journal of Visual and Performing Arts, Volume 5 Issue 1, access date 10/11/2025: <https://www.granthaalayahpublication.org/Arts-Journal/ShodhKosh/article/view/4815>

⁶ Pratyush Jah (2020), "Genesis and Growth of Public Interest Litigation in the Indian Legal System", International Journal of law management & humanities, Volume 3, Issue 3, page 1607, access date 10/11/2025: <https://ijlmh.com/wp-content/uploads/Genesis-and-Growth-of-Public-Interest-Litigation-in-the-Indian-Legal-System.pdf>

caused by an oleum gas leak from a Delhi factory owned by Shriram Foods and Fertilizers. It raised concerns about the detrimental environmental effects of establishing chemical facilities in densely populated areas. This case, which covers the Ganga pollution case from 1985, the Taj Mahal pollution case from 1996, and the vehicle pollution cases from 1998, gained strength following the Bhopal gas catastrophe. The government became aware of the necessity to safeguard the environment and the risks that environmental degradation poses to its population as a result of this lawsuit.

2.3 Current legal regulations on Public Interest Litigation in India

2.3.1 Conditions for filing a Public interest litigation

In the early stages of the development of public interest litigation in India, the Supreme Court proactively relaxed the requirements for standing, particularly in the case of *S.P. Gupta v. President of India and others*. In this case, the seven-judge bench of the Supreme Court of India, led by Justice PN Bhagwati, interpreted the relaxation of standing by allowing any individual to file a lawsuit to address public harm in cases where the actions or omissions of the State or any public authority do not cause specific legal harm to any individual or group, and the harm only affects public interest. Because if only individuals who suffer specific legal damages are allowed to file lawsuits, then in the aforementioned case, if no one files a lawsuit to remedy the public harm, it would enable state agencies and public authorities to act arbitrarily beyond their jurisdiction or violate their obligations to society that those agencies must fulfil.

In India, the plaintiffs include individuals and social organisations, such as lawyers working for human rights, and it is not required that they be the direct victims. The order of filing a lawsuit is not designed according to a hierarchical mechanism; individuals can directly submit petitions to the Supreme Court or the High Court.⁷ The conditions for establishing standing in PIL currently allow NGOs, lawyers, journalists, and even spontaneous social groups to exercise the right to sue in order to protect the indivisible values of the community, such as the ecological environment or the integrity of the administrative apparatus. However, to protect the integrity of the judicial system and completely prevent the risk of abusing the right to litigate for improper purposes, the Supreme Court of India has established extremely stringent conditions regarding the honesty and motives of the litigating parties. According to the standardised guidelines established in the case of *State of Uttaranchal v. Balwant Singh Chaufal* (2010), the PIL petitioner must prove themselves to be a "*bona fide*" entity and act entirely without self-interest, extortion, or personal image promotion. The court firmly applies an exclusion mechanism against "*busybodies*" or lawsuits that are politically motivated under the guise of protecting public interest.⁸

⁷ Article 32 and Article 226 of the Indian Constitution.

⁸ Supreme Court of India. (2010). *State of Uttaranchal v. Balwant Singh Chaufal*. (Civil Appeal Nos. 1134-1135). New Delhi: SCI

Additionally, it is a mandatory requirement that the case must genuinely pertain to the interests of an unidentified group of people or a disadvantaged segment of the population that has truly been deprived of the ability to self-help. Indian law clearly stipulates that the PIL provision cannot be used to replace individual complaints regarding contract disputes, individual labour relations, or pure property disputes that are already governed by ordinary civil procedures.

2.3.2 Scope of the lawsuit of Public Interest Litigation

The scope of litigation in PIL in India is not established by rigid legal texts but is formed through the continuous development of dynamic jurisprudence. Initially, PIL focused on the areas of human rights and social welfare, starting with the landmark prison reform cases, notably the *Hussainara Khatoon* case, which helped free tens of thousands of unlawfully detained prisoners. Later, the scope expanded to include the abolition of forced labour, the protection of the rights of debt slaves in quarries and brick kilns, and the establishment of guidelines to protect women from sexual harassment in the workplace through the famous *Vishaka* judgement. Indian PIL has expanded its scope to all aspects of social life, where there is the presence of "*systemic injustice*" and the silence of marginalised groups. This development represents a turning point in judicial history, shifting from the protection of individual rights to the protection of the common good of the community, through the expansion of the scope of Article 21 of the Constitution regarding the right to a dignified life. The second field, and also the most prominent one, is environmental and ecological governance. The scope of litigation in this area covers everything from preserving cultural heritage, such as the case of protecting the Taj Mahal from industrial pollution, to restoring major rivers like the Ganges and Yamuna. In particular, the Court has integrated advanced international environmental principles such as the "*Precautionary Principle*" and "*Polluter Pays Principle*" to establish liability for compensation in water and air pollution lawsuits. The "*Public Trust Doctrine*" was formalised in the case of *M.C. Mehta v. Kamal Nath*, officially establishing the protection of natural resources as a constitutional obligation of the state, preventing any attempts to privatise common ecological spaces. This expansion shows that environmental PIL has not only stopped at incident management but has become a long-term risk governance mechanism, ensuring intergenerational equity through the preservation of sustainable natural values.

In the modern era, alongside human rights and the environment, PIL in India has also delved deeply into the fields of national governance, anti-corruption, and the transparency of political life. This is a highly sensitive area, reflecting a direct confrontation between the dynamic judicial power and the stagnation of the administrative machinery. Famous lawsuits such as *Vineet Narain v. The Union of India* established the Court's supervisory authority over the independence of investigative agencies in financial scandals involving high-ranking officials. The scope of litigation has also expanded to include the protection of the integrity of the electoral system, requiring candidates to publicly disclose their criminal records and personal assets to ensure voters' right to information under Article 19 of the

Constitution. The inclusion of acts of political power abuse and budget misappropriation within the scope of PIL is regarded by scholars as a mechanism to enhance the efficiency of state management and promote government accountability to the public. However, this expansion has also sparked debates about the risk of power overreach, as the Court intervenes deeply in policy decisions that fall under the jurisdiction of the legislative and executive branches. This diversity demonstrates that PIL is not just a legal tool but a versatile instrument that helps fill gaps not yet addressed by administrative management, promoting an administration accountable to all citizens.

The emerging group of litigation fields in the modern era relates to economic and social rights, notably the right to education and the right to food. This field shows that Indian PIL is striving to resolve the contradiction between the socialist ideals in the Constitution and the reality of economic inequality, using judicial tools to urge the implementation of National Policy Directives. The legalisation of the right to breathe clean air or the right to housing through continuous "*Mandamus*" orders has transformed the Court into a central coordinator of efforts to improve community welfare, affirming the role of the judiciary in reshaping the social landscape of an emerging nation.⁹ At the same time, in India, not only are issues such as consumer protection, gender equity, environmental pollution prevention, and ecological destruction addressed, but there is also a focus on seeking social and political space for the disadvantaged and other vulnerable groups in society. The court has issued rulings in cases related to various types of rights and protections such as the right to access food, clean air, safe working conditions, political representation, affirmative action, anti-discrimination measures, and prison condition regulations, among many other issues. For example, in the case *People's Union for Democratic Rights v. Union of India*, a lawsuit was filed against government agencies for the use of child labour and paying below the minimum wage according to the regulations.

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2.3.3 Procedures of Public Interest Litigation

The litigation process in PIL India features a open and non-adversarial judicial system, breaking down all barriers of the cumbersome formalities of traditional legal procedures to prioritise urgency and practical restorative effectiveness. The revolutionary breakthrough in procedural terms is the authority through correspondence, which allows the Supreme Court and High Courts to take up cases based solely on a complaint letter, a postcard, or even a newspaper article reflecting community injustice sent to the Chief Justice.¹¹ Moreover, the Court also possesses the *Suo Motu* power, meaning the Court can initiate cases related to public interest on its own. This regulation allows judges to initiate legal proceedings based on personal knowledge or information from public opinion about a serious violation of public interest without waiting for any official complaint from the public.

Due to public interest plaintiffs often facing significant difficulties in accessing evidence and technical data against multinational corporations or powerful state entities, the Court frequently exercises its authority to appoint independent expert committees or field investigation teams.¹² These committees, with the participation of reputable scientists and lawyers under the title of *Amicus Curiae*, are tasked with conducting field surveys and submitting objective scientific reports to serve as direct evidence for the verdict, as the Court has implemented in the campaigns to clean the Ganges River or protect the Taj Mahal. At that time, the committee's report was considered *prima facie* evidence. In the *Bandhua Mukti Morcha* case (slave labour), the Court rejected the defendant's argument that the report was not valid because it had not undergone cross-examination, asserting that in PIL, the procedure must be flexible to uncover the truth.¹³ In particular, Indian PIL

⁹ Poddar, M., & Nahar, B. (2017). "*Continuing Mandamus*" – A judicial innovation to bridge the right-remedy gap. *NUJS Law Review*, 10, 1-35.

¹⁰ The Honourable K G Balakrishnan Chief Justice of the Supreme Court of India (2008).

¹¹ Thiruvengadam, A. K. (2009). *The Constitution of India: A contextual analysis*. Bloomsbury Publishing.

¹² Mehta, M. C. (2020). Environmental justice through public interest litigation: The Indian experience. *Indian Law Review*, 5(3), 382-398.

¹³ Prasad, M. R. K., Naik, B. C., & Pande, B. B. (n.d.). *Public Interest Litigation* (LL.M.203 Unit 5). BB.A.U.ePathshala. <https://www.bbau.ac.in/dept/HR/TM/LL>

allows the Court not to issue a final judgement and close the case, but to keep the record in a state of ongoing resolution to monitor enforcement for many years.¹⁴ Additionally, the Court will periodically hold hearings to review the government's progress, issuing further interim directives to expedite the fulfilment of obligations until public interest is fully restored. This special resolution process has transformed the Court from a mere adjudicating body into a center for public policy oversight, ensuring that constitutional commitments to human dignity and the environment are never forgotten due to the inertia of the administrative apparatus.

Especially, the burden of proof in public interest litigation India no longer places the burden of proof on the parties but is gradually shifting towards a model of "*Proactive judicial assistance*" to overcome the information asymmetry between citizens and power entities. The court applies a standard that lowers the burden of preliminary proof, whereby the plaintiff only needs to present prima facie evidence of a violation of public interest. When the Court identifies a serious risk, the burden of proof will automatically shift to the defendant, whether it is a state agency or a business, requiring them to demonstrate compliance with the law and safety standards. This is special support for impoverished victims who do not have the financial means to hire independent expert assessors. Additionally, the court has integrated international principles such as the precautionary principle and the public trust doctrine, viewing the State as the trustee of natural resources on behalf of the people, thereby obliging the party responsible for harm to bear the ecological restoration responsibility regardless of whether intentional fault can be proven or not.

2.3.4 The cost of Public Interest Litigation

The financial mechanism in PIL is designed to eliminate cost barriers for civil society with a nominal court fee of only about 50 Rupees for each petition submitted to the Supreme Court. The court does not require complex financial deposit or guarantee procedures that are often applied in private civil litigation, and is also willing to provide free legal aid lawyers for the poor and prisoners. This policy ensures that poverty is never an obstacle to seeking justice against the most powerful economic or administrative forces. Especially, in cases where the complainant does not have a lawyer, the Court will appoint an Amicus Curiae from the state legal aid fund or through pro bono support from senior lawyers.¹⁵ This regulation is considered one of the major advantages of PIL in India because the allocation of state budget funds to resolve cases

will contribute to the development of PIL, ensuring that people have comprehensive and effective access to justice.

To maintain strictness and prevent abuse, the Indian Court uses a deterrent fee mechanism against lawsuits that lack good faith or serve personal purposes. At the same time, the court has the authority to require the losing party to reimburse all investigation costs, expert fees, and attorney fees to the civil society organisations that have diligently pursued the case. This mechanism creates a smart financial leverage system: it not only opens the door to substantive justice but also creates an economic barrier against actions that infringe on the common good.

3. Evaluation of legal regulations on Public Interest Litigation in India

The formation and development of PIL in India is not the result of an immediate legislative decision, but rather the outcome of a process of accumulating judicial thought and constitutional practice over several decades. First of all, the most significant achievement of PIL in India lies in the fundamental transformation of the doctrine of locus standi. Before the 1970s, the Indian judicial system operated according to the traditional common law model, where only individuals whose rights and interests were directly infringed had the right to sue. However, in the context of Indian society, where poverty, inequality, and limited access to the courts for marginalised groups persist, this approach gradually revealed its shortcomings. Through a series of groundbreaking rulings by the Supreme Court, particularly under Chief Justices P.N. Bhagwati and V.R. Krishna Iyer, the Court significantly expanded the scope of entities entitled to file lawsuits, allowing any well-meaning individual or organization to file on behalf of those unable to protect their own rights. This is a judicial turning point of structural significance, laying the foundation for the emergence of PIL as a mechanism for protecting constitutional rights in the public interest.

Another notable achievement of PIL in India is the Court's development of flexible procedures to minimise the formal barriers of traditional litigation. The court accepts letters, postcards, or petitions that do not follow standard formats as a form of initiating constitutional proceedings, thereby forming the concept of "*epistolary jurisdiction*". The simplification of procedures and the reduction of initial proof requirements have facilitated disadvantaged groups, especially the poor, migrant workers, prisoners, or communities affected by environmental issues, to indirectly access justice through social organisations or public interest lawyers. This is not just a technical improvement, but also a restructuring of the concept of the role of the Court in a constitutional democratic society.

In addition, the revolutionary contributions to expanding access to justice, PIL is facing profound difficulties and challenges both in terms of theoretical and practical operation, specifically as follows:

Firstly, the risk of abusing the public interest litigation mechanism. The Supreme Court's expansion of the locus standi doctrine since the late 1970s, allowing any individual to file a lawsuit to protect the interests of disadvantaged groups, has created a breakthrough in access to justice. However, this very expansion has weakened the mechanism for screening standing to sue. Practice shows that many

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¹⁴ Maheshwari, A. (2023). The writ of continuing mandamus: A step towards development of constitutional jurisprudence. *International Journal of Legal Research and Analysis*, 2023.

¹⁵ Cunningham, C. (2010). *Public Interest Litigation in India*. Retrieved from <http://www.clarkcunningham.org/PDF/PublicInterestLitigationInIndia.pdf>

cases are filed under the guise of public interest but actually serve personal motives, political interests, or commercial competition. When PIL is used as a tool for political or economic strategy, the legitimacy of the judiciary is at risk of being undermined, as the Court may become entangled in disputes that belong to the political or market sphere.

Secondly, PIL poses a serious challenge to the principle of decentralisation through the phenomenon of the judicialization of politics. For decades, the Supreme Court of India has issued detailed directives on environmental management, prison reform, pollution control, urban planning, and even oversight of the implementation of administrative policies through the mechanism of continuing mandamus. From a constitutional perspective, the Court's deep involvement in the design and implementation of public policy blurs the lines between the judicial and executive branches. When the Court not only interprets the law but also issues specific administrative orders, the question arises as to whether the judiciary is exceeding its functional limits. This expansion of role, if unchecked, could lead to judicial overreach, undermining the balance of power within the state structure.

Thirdly, PIL in India lacks a unified written legal framework, primarily shaped through case law and judicial practice. The development based on judicial initiative brings high flexibility but also creates inconsistency. The criteria for jurisdiction, conditions for acceptance, standards of proof, and scope of intervention are not always clearly and consistently defined. Practice shows that the degree of expansion or contraction of PIL significantly depends on the philosophy and inclination of each judge or each historical period. This reduces the predictability of the legal system and may affect public trust in the stability of the judiciary.

PIL in India has contributed to the formation of a new legal culture, in which the Court is seen as a forum for protecting public interest rather than just an agency for resolving personal disputes. The rise of civil society organisations, public interest lawyers, and social movements participating in litigation has created a vast socio-legal network that supports the operation of PIL. Although in recent years, PIL has also faced the risk of being abused for political purposes or personal interests, overall, the initial formation and development phase of PIL clearly demonstrated the adaptability and creativity of the Indian judicial system in the face of social challenges.

4. Evaluation and legal recommendations for Vietnam

4.1 Assessment of Vietnamese law on Public Interest Litigation

The history of Vietnamese civil procedure legislation records the continuous evolution in the thinking about the right to sue for public benefit. In Vietnam, the regulation on lawsuits for the benefit of others first appeared in Articles 8 and 28 of Ordinance No. 27-LCT/HĐNN on civil procedure in 1989. It was not until the Civil Procedure Code of 2004 was enacted that this issue was comprehensively addressed in Article 162, allowing agencies and organisations to file lawsuits to protect public interests and the interests of the State within their respective fields of responsibility. Accordingly, the Procuracy is no longer granted the authority to initiate civil lawsuits in general as before, but primarily performs the function of supervising the

compliance with the law during the resolution of cases and expressing opinions at court hearings.

By the Civil Procedure Code of Vietnam 2015, amended in 2025, the mechanism for initiating lawsuits to protect the rights and interests of others, as well as public interests and the interests of the State, has been recognised in Article 187. In addition to social organisations and institutions, for the first time, the law recognises the right of individuals to file lawsuits in marriage and family cases to protect the rights of others. In reality, some cases of public interest and state interest being violated do not directly involve any individual, agency, or organization. Therefore, these violations do not have any information reflecting or recommending, and there is no one to file a lawsuit to resolve them through civil or administrative procedures.

An important legal turning point with the issuance of Resolution No. 205/2025/QH15 by the National Assembly. This document marks the re-establishment of the civil litigation powers of the People's Procuracy but at a new level of development: more stringent, focused, and strictly adhering to the principle of subsidiarity. Resolution 205 officially introduced the concept of "*public interest civil cases*" for the first time and directly granted the right to initiate lawsuits to the People's Procuracy to protect vulnerable groups (children, people with disabilities, ethnic minorities...) and public interests in essential areas (environment, land, food safety, consumer protection...).

Based on Resolution 205/2025, Joint Circular No. 09/2025 has specified the procedures and processes from the stage of receiving reports, verifying information to issuing specialised litigation decisions. The combination of Resolution 205 and Circular 09 has created a proactive "*pre-control*" legal framework, allowing the People's Procuracy to intervene early to prevent actions that harm public interests, addressing the power gaps in previous Civil Procedure Codes. The emergence of Resolution 205/2025 and Circular 09/2025 has initially formed a relatively comprehensive legal framework for the public interest litigation model, with the People's Procuracy at its core; simultaneously, it has created an important practical basis for amending and perfecting the Civil Procedure Code towards recognising a stable public interest civil procedure mechanism in the future.

4.2 Recommendations for building and perfecting the law on Public Interest Litigation in Vietnam

In the context of Resolution No. 205/2025/QH15 of the National Assembly on piloting the People's Procuracy to initiate civil lawsuits to protect the civil rights of vulnerable groups or public interests, and Circular No. 09/2025 guiding the implementation of Resolution No. 205/2025/QH15, which is creating the initial legal foundation for the public interest civil litigation mechanism in Vietnam, practical experience from India shows that the effectiveness of this model is determined by legislative techniques and procedural design rather than policy slogans. However, in order for the pilot mechanism to truly fulfil its role as an institutional experimental tool, it is necessary to supplement it with technical regulations, selectively adopting from the PIL model in India but localised to fit the current Vietnamese legal context. The group of authors proposes the following recommendations:

Firstly, establish a mechanism for receiving litigation information at the People's Procuracy. To ensure that Resolution 205/2025/QH15 is truly effective, the People's Procuracy cannot just sit and wait for cases but must establish a mechanism that allows citizens and the press to submit "*lawsuit proposals*" (similar to PIL letters in India) to the People's Procuracy. The People's Procuracy will play the role of receiving, verifying, and evaluating these petitions and will initiate legal proceedings if there are signs of serious violations of public interests. The resolution needs to clearly stipulate the procedures for receiving information, the locations for receiving it, and the methods of receiving it, while also ensuring mechanisms for the safety and confidentiality of personal information for the informants. This helps combine the supervisory power of the people with the professional legal expertise of the Prosecutor.

Secondly, apply the Fact-Finding Commissions method in PIL. In environmental cases or widespread consumer rights violations, citizens often have a disadvantage in terms of evidence. The People's Procuracy, when exercising the right to initiate lawsuits under Resolution 205, needs to make the most of its supervisory and investigative powers to collect evidence and request independent assessments. Vietnam can consider establishing "*Special Forensic Examination Councils*" operating under the People's Procuracy's request mechanism to determine environmental damage, similar to the Committees of the Indian Court.

Thirdly, it is necessary to supplement regulations on the mechanism of Continuing Mandamus. Practice in Vietnam shows that many environmental judgements are difficult to enforce thoroughly. Vietnamese courts need to study the application of measures to issue decisions mandating the fulfilment of obligations and requiring the defendant (polluting enterprises) to report periodically to the enforcement agency and the People's Procuracy on the progress of remediation. The People's Procuracy needs to maintain the right to supervise compliance until the environmental conditions are fully restored.

5. Conclusion

PIL in India represents a significant jurisprudential innovation that expanded the horizon of access to justice and accountability. Rooted in constitutional writ jurisdiction and judicial activism, PIL has played a crucial role in safeguarding fundamental rights, shaping public policy, and addressing societal injustices. Though not without challenges, its legacy offers valuable insights for countries like Vietnam seeking to develop robust legal frameworks for public interest protection. Gender justice, environmental protection, consumer protection, and accountability of public authorities are areas where Vietnam may draw upon the Indian PIL experience to reinforce its own legal mechanisms for public welfare.

6 References

- Decree No. 27-LCT/HĐNN8 of the State Council dated December 7, 1989, on the procedures for resolving civil cases.
- The Civil Procedure Code No. 24/2004/QH11 issued by the 11th National Assembly on June 15, 2004. Civil Procedure Code No. 24/2004/QH11 issued by the 11th National Assembly on June 15, 2004.
- The Civil Procedure Code No. 92/2015/QH13 issued by the XIII National Assembly on November 25, 2015, amended and supplemented in 2025. The Civil Procedure Code No. 92/2015/QH13 issued by the XIII National Assembly on November 25, 2015, amended and supplemented in 2025.
- The Constitution of India.
- Nguyen Duy Giang. Strengthening the role and responsibility of the People's Procuracy in protecting public interests and state interests, *Prosecutorial Journal*, 2025, No. 14/2025, tr.14
- Cunningham C. Public Interest Litigation in India, 2010. Retrieved from: <http://www.clarkcunningham.org/PDF/PublicInterestLitigationInIndia.pdf>
- Shivarudrappa HS. The role of judicial activism in India: A study. *ShodhKosh: Journal of Visual and Performing Arts*. 2024; 5(1). Retrieved November 10, 2025, from: <https://www.granthaalayahpublication.org/Arts-Journal/ShodhKosh/article/view/4815>
- Gauri V. Public interest litigation in India: Overreach or a tool for justice? (Policy Research Working Paper No. 5109). World Bank, 2009.
- Jah P. Genesis and growth of Public Interest Litigation in the Indian legal system. *International Journal of Law Management & Humanities*. 2020; 3(3):1606-1607. Retrieved November 10, 2025, from: <https://ijlmh.com/wp-content/uploads/Genesis-and-Growth-of-Public-Interest-Litigation-in-the-Indian-Legal-System.pdf>
- Joint Circular No. 09/2025 guiding the implementation of Resolution No. 205/2025/QH15 dated June 24, 2025, of the National Assembly on piloting the People's Procuracy to initiate civil lawsuits to protect the civil rights of vulnerable groups or to safeguard public interests.
- Maheshwari A. The writ of continuing mandamus: A step towards development of constitutional jurisprudence. *International Journal of Legal Research and Analysis*, 2023.
- Mehta MC. Environmental justice through public interest litigation: The Indian experience. *Indian Law Review*. 2020; 5(3):382-398.
- Poddar M, Nahar B. 'Continuing Mandamus' – A judicial innovation to bridge the right-remedy gap. *NUJS Law Review*. 2017; 10:1-35.
- Prasad MRK, Naik BC, Pande BB. Public Interest Litigation (LL.M.203 Unit 5). BB.A.U. ePathshala, n.d. Retrieved from: <https://www.bbau.ac.in/dept/HR/TM/LL.M.203%20Unit%205.Public%20Interest%20Litigation.ePathshala.pdf>
- Resolution No. 205/2025/QH15 of the National Assembly on piloting the People's Procuracy to initiate civil lawsuits to protect the civil rights of vulnerable groups or to safeguard public interests.
- Supreme Court of India. *State of Uttaranchal v. Balwant Singh Chaufal* (Civil Appeal Nos. 1134–1135). New Delhi: Supreme Court of India, 2010.
- The Honourable KG. Balakrishnan. Annual Lecture 2008: Growth of Public Interest Litigation in India, 2008. Retrieved November 10, 2025, from:

<https://sal.org.sg/articles/annual-lecture-2008-growth-of-public-interest-litigation-in-india/#>

18. Thiruvengadam AK. The Constitution of India: A contextual analysis. Bloomsbury Publishing, 2009.
19. Chattopadhyay S. Public Interest Litigation in India: The role of the Supreme Court in shaping India's legal and social landscape. International Journal of Law Management & Humanities. 2024; 7(6):2232. Retrieved November 10, 2025, from: <https://ijlmh.com/wp-content/uploads/Public-Interest-Litigation-in-India.pdf>