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STATE-LED ACCESS TO JUSTICE FOR VULNERABLE GROUPS: WHAT THE CHINESE AND VIETNAMESE PROCURATORIAL MODELS OFFER EASTERN EUROPEAN AND EU REFORM

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ABSTRACT

Background: *Vulnerable groups often face substantial barriers to obtaining effective remedies through ordinary civil litigation, while civil-society organizations may lack the capacity or independence necessary to act on their behalf. In response, both China and Vietnam have expanded the role of the people's procuratorate in civil justice. China has institutionalized procuratorial public interest litigation (PIL) since 2017, whereas Vietnam, through Resolution No. 205/2025/QH15, has introduced a pilot mechanism authorizing the procuratorate to initiate civil proceedings to protect vulnerable groups. Although commonly associated with East Asian socialist legal systems, this institution derives from the same prokuratura tradition that continues to influence prosecutorial systems in post-socialist Eastern Europe, where the Council of Europe has developed standards governing prosecutorial functions outside the criminal justice sphere.*

Method: *The article adopts a comparative legal methodology, examining the legislative frameworks, institutional designs, and developmental trajectories of the Chinese and Vietnamese models. It further evaluates both systems against European prosecutorial standards, particularly Recommendation CM/Rec(2012)11 of the Committee of Ministers and the equality-of-arms jurisprudence of the European Court of Human Rights.*

Results and Conclusions: *The analysis demonstrates that the two models embody contrasting approaches. Vietnam adopts a rights-based model that prioritizes the direct protection of vulnerable individuals but provides only limited guidance regarding the boundaries of procuratorial intervention. China employs a public-interest-oriented model that offers a more structured framework for state involvement, yet subordinates individual rights protection to a broader collective conception of the public interest. To address these limitations, the article proposes a hybrid model that combines vulnerability with a minimum public-interest dimension as a unified threshold for litigation, supported by transparent case-selection criteria and a structured evaluation framework. The significance of the analysis extends beyond Vietnam and China. By identifying conditions under which prosecutorial intervention may remain compatible with fair-trial guarantees, the article contributes to ongoing debates concerning the prosecutor's civil role in post-socialist jurisdictions and offers insights relevant to the EU's collective-redress framework.*

1 INTRODUCTION

In March 2025, Vietnamese authorities uncovered and dismantled one of the largest organized consumer fraud schemes to date, in which the primary victims were elderly individuals. The perpetrators operated in a systematic manner, using deceptive product demonstrations, misleading claims about health benefits, and high-pressure sales tactics. The total financial losses were estimated to reach hundreds of billions of Vietnamese dong, with the number of victims nationwide potentially in the hundreds of thousands.[1] This case is not an isolated incident but reflects a broader pattern in which vulnerable groups, including the elderly, children, persons with disabilities, ethnic minorities, and low-income households, are increasingly targeted by organized and large-scale practices that undermine their rights. In this context, the harm involved cannot be understood merely as a collection of individual disputes but should be viewed as a systemic and public issue. This, in turn, points to the need for protective mechanisms with broader reach and stronger authority, beyond what conventional forms of private litigation can provide.

A notable paradox is that those who suffer the most serious harm are often the least able to access legal protection. Vulnerable groups face a range of structural barriers to justice

1 Thang Quoc, 'Script of a Criminal Ring Trapping Hundreds of Thousands of Elderly Victims' (*VnExpress*, 23 June 2025) [in Vietnamese] <https://vnexpress.net/kich-ban-bang-toi-pham-giang-bay-hang-tram-nghin-nguoi-gia-4904947.html> accessed 22 July 2026.

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including financial incapacity to bear litigation costs, limited legal awareness, psychological reluctance to acknowledge harm, and geographical distance from courts and legal aid services.[2] Taken together, these factors produce what may be described as a "justice paradox": the greater the harm suffered by vulnerable groups, the more limited their ability to seek protection through conventional litigation mechanisms.

For a long time, civil society organizations such as consumer protection associations, non-governmental organizations, and legally authorized representative bodies have been regarded as the primary means of addressing this paradox. In practice, however, these actors often lack the investigative authority, financial resources, and procedural standing necessary to counter well-resourced business entities, particularly in cases involving large numbers of dispersed victims.[3] These limitations are structural and cannot be resolved simply by strengthening organizational capacity. At a deeper level, they reflect a mismatch between the collective nature of the harm suffered by vulnerable groups and the individualized structure of traditional civil litigation. This results in a persistent enforcement gap, in which neither private litigation nor civil society advocacy is able to provide an effective response.

In this context, PIL initiated by the procuratorate has emerged as a distinct institutional response. By granting the people's procuratorate the authority to bring actions in the public interest, this model reflects a form of state-led enforcement that can address structural problems beyond the reach of private litigation and civil society initiatives. China formally institutionalized this approach following a nationwide pilot from 2015 to 2017, culminating in the recognition of procuratorial PIL in the 2017 Civil Procedure Law.[4] In Vietnam, a similar institutional development has recently taken place. On 24 June 2025, the National Assembly adopted Resolution No. 205/2025/QH15, which for the first time authorizes the people's procuratorate to initiate civil proceedings on a pilot basis to protect vulnerable groups, with effect from 1 January 2026. The Resolution identifies six categories of vulnerable subjects under Article 3(1), marking an initial step toward formalizing this mechanism within the domestic legal framework.[5]

2 Bryant G Garth and Mauro Cappelletti, 'Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective' (1978) 27 Buffalo Law Review 186-96 <https://www.repository.law.indiana.edu/facpub/1142> accessed 22 July 2026.

3 Harriet Samuels, 'Public Interest Litigation and the Civil Society Factor' (2018) 38(4) Legal Studies 516 <https://doi.org/10.1017/lst.2018.9> accessed 22 July 2026.

4 Law of the People's Republic of China 'On Civil Procedure' of 9 April 1991 (amended 27 June 2017) art 55 <https://cicc.court.gov.cn/html/1/219/199/200/644.html> accessed 22 July 2026.

5 Resolution of the National Assembly of the Socialist Republic of Vietnam no 205/2025/QH15 'On Piloting the Initiation of Civil Lawsuits by the People's Procuracy to Protect the Civil Rights of Vulnerable Groups or to Protect Public Interests' (adopted 24 June 2025) <https://thuvienphapluat.vn/van-ban/Thu-tuc-To-tung/Nghi-quyet-205-2025-QH15-thi-diem-Vien-Kiem-sat-khoi-kien-vu-an-dan-su-bao-ve-chu-the-de-bi-ton-thuong-662747.aspx> accessed 22 July 2026.

However, the procuratorate is not a uniquely Chinese or Vietnamese institution. Rather, it originates from the Soviet prokuratura,[6] an institution historically entrusted not only with criminal prosecution but also with a broader mandate of general supervision over legality, including the authority to initiate or participate in civil proceedings for the protection of public interests and individual rights.[7] This institutional model subsequently spread across socialist legal systems, shaping both the procuracies of East Asia and the prokuratura institutions that continue to be recognized by the Council of Europe as a characteristic feature of Eastern European legal systems, including those of the Russian Federation, Ukraine, and the Republic of Moldova.[8] In recent decades, the civil and supervisory powers of the prokuratura in these countries have been progressively narrowed, redefined, or subjected to heightened scrutiny in the context of rule-of-law reforms and legal approximation to European standards.[9] By contrast, China and Vietnam have expanded the role of the procuratorate in civil litigation, particularly as a mechanism for addressing structural barriers to justice experienced by vulnerable groups. The contrasting trajectories of China and Vietnam provide an opportunity to reconsider an issue that remains unsettled within the European legal space: the conditions under which a state prosecutorial body may initiate civil litigation on behalf of vulnerable individuals without compromising the equality of arms or the autonomy of private parties. It is this unresolved tension that gives the present comparison its relevance beyond the two jurisdictions examined.

Despite the growing literature on procuratorial PIL, three important gaps remain. *First*, although the Chinese model has received extensive scholarly attention since its codification in 2017, Vietnam's mechanism has yet to be examined in a systematic manner, particularly with respect to its distinctive rights-based foundation and how it differs from the Chinese approach. *Second*, existing studies have generally analyzed these East Asian models within their own domestic contexts without evaluating them against the European standards governing the prosecutor's role outside the criminal justice system, despite their shared prokuratura heritage, which provides a meaningful basis for comparison. *Third*, the current scholarship has not developed a coherent institutional framework capable of reconciling the protection of vulnerable individuals with the rule-of-law requirements of equality of arms

6 Margaret Hanson and Michael Thompson-Brusstar, 'Building Socialist Legality: Political Order and Institutional Development in the Soviet and Chinese Procuracies' (2021) 73(1) Europe-Asia Studies 157 <https://doi.org/10.1080/09668136.2020.1854185> accessed 22 July 2026; Lan Phuong Pham, 'The Procuracy as a Subject of Constitutional Debate: Controversial and Unresolved Issues' (2016) 11(2) Asian Journal of Comparative Law 309-11 <https://doi.org/10.1017/asjcl.2016.25> accessed 22 July 2026.

7 European Commission for Democracy through Law (Venice Commission), *Report on European Standards as Regards the Independence of the Judicial System, pt 2: The Prosecution Service* (CDL-AD(2010)040, 3 January 2011) para 80 <https://rm.coe.int/1680700a60> accessed 22 July 2026.

8 Recommendation CM/Rec(2012)11 Council of Europe of the Committee of Ministers to Member States on the Role of Public Prosecutors Outside the Criminal Justice System (adopted 19 September 2012) para 4 <https://search.coe.int/cm?i=09000016805c9d19> accessed 22 July 2026.

9 Venice Commission (n 7) paras 72, 81.

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and clearly defined prosecutorial powers. This article seeks to address these gaps by providing the first systematic comparison of the Vietnamese and Chinese models, assessing both against European prosecutorial standards and proposing a hybrid threshold that combines vulnerability and public interest within a unified, rule-of-law-compatible framework for procuratorial intervention.

Against this background, this article addresses the following central research question: Does Vietnam's treatment of vulnerability as an autonomous basis for procuratorate-led litigation mark a substantive departure from China's public-interest-centred approach, and what does this difference suggest for the institutional design of effective state-led protection mechanisms for vulnerable groups? It also reflects on the broader implications of this comparison for ongoing debates concerning the role of prosecutors outside the criminal justice system in post-socialist Eastern Europe and the EU.

To address this question, this article adopts a comparative legal approach, combining doctrinal analysis with institutional comparison. It examines relevant legal provisions, policy instruments, and implementation practices in both systems, moving beyond formal legislative design to consider the underlying institutional conditions. These include the degree of independence of the procuratorate, the scope of its authority to initiate proceedings, and the relationship between procuratorate-led PIL and enforcement mechanisms operated by civil society. Together, these factors are central to determining whether the mechanism can function effectively as a means of providing substantive protection for vulnerable groups. In addition, methodological clarification is necessary at the outset. Since Vietnam's mechanism came into force only in January 2026, no empirical evidence or established body of practice is yet available. Accordingly, the Vietnamese model is examined from an ex ante and doctrinal perspective, focusing on the institutional framework created by Resolution No. 205/2025/QH15, including its triggering conditions, procedural architecture, and built-in safeguards, rather than its practical implementation. Although this limits the analysis, it reflects the purpose of the study. Evaluating the institutional design before implementation makes it possible to identify potential risks, assess the coherence of the legislative framework, and provide guidance while the pilot mechanism remains open to adjustment. Where reference is made to practical experience, the analysis draws on the more developed Chinese model, using it as a comparative point of reference for anticipating the institutional and procedural issues that may emerge during Vietnam's pilot phase.

The article is structured as follows. Part II develops the theoretical framework, drawing on scholarship on access to justice, state-led litigation, vulnerability, and using these perspectives to analyze procuratorate-initiated PIL as a distinct institutional model. Part III examines the procuratorial PIL system in China, with particular attention to how it addresses the protection of vulnerable groups, its institutional evolution and the structural tensions embedded in the model. Part IV analyzes the emerging legal framework in Vietnam under Resolution No. 205/2025/QH15, assessing key design choices and identifying outstanding

institutional issues. Building on this foundation, Part V compares the two systems against European prosecutorial standards. Part VI proposes a hybrid model for Vietnam and draws out its implications for Eastern European and EU reform. Part VII concludes.

2 THEORETICAL FOUNDATIONS OF PROCURATORIAL PIL

To assess procuratorial PIL as a distinct institutional model, this article develops a theoretical framework built on three interrelated analytical strands: access to justice, state-led litigation, and vulnerability. Rather than treating these strands as discrete, they are integrated into a coherent line of analysis. Specifically, access to justice theory is used to identify the underlying problem that PIL mechanisms seek to address; the theory of state-led litigation provides the conceptual basis for understanding why a procuratorate-led model may be institutionally justified; and vulnerability theory helps to identify the groups requiring protection, while also informing a comparative perspective that highlights meaningful differences between the Vietnamese and Chinese models.

2.1. Access to Justice Theory and Structural Judicial Gaps

The first theoretical foundation of this article is grounded in access to justice scholarship, most notably the influential work of Mauro Cappelletti and Bryant Garth on the global access to justice movement. They argue that modern legal systems have undergone three successive "waves" of reform: the expansion of legal aid, the development of mechanisms to protect collective and diffuse interests, and the refinement of alternative dispute resolution mechanisms. Importantly, they recognized early on that traditional civil litigation, structured around bilateral disputes between parties of relatively equal legal capacity, is ill-suited to address harms that are collective, diffuse, and lack a clearly identifiable plaintiff.[10] This constitutes a structural gap within the justice system and it is this insight that laid the groundwork for later debates on the legitimacy of PIL as a supplementary enforcement mechanism.

Nevertheless, early access to justice theory was largely developed in the context of Western democracies with relatively strong civil societies, where non-governmental organizations and individuals possess both the capacity and independence to act as plaintiffs in PIL. As a result, a key question remains insufficiently addressed: in contexts where civil society lacks either the capacity or the autonomy to initiate such claims, who is to assume this role? This issue is not confined to post-colonial or authoritarian contexts. It also arises in contemporary European debates concerning collective redress and the appropriate role of the prosecutor outside the criminal justice system, both of which are discussed later in this article.

10 Garth and Cappellett (n 2).

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2.2. State-Led Litigation Theory and the Procuratorial PIL Model

The second strand of the framework builds on the recognition that PIL systems do not operate according to a single logic regarding the identity of the enforcement actor. From a comparative perspective, three basic structural models can be distinguished. *First*, the court-centred model, exemplified by India, where the Supreme Court may initiate proceedings on its own motion (suo motu) or admit petitions from any citizen acting on behalf of vulnerable groups, thereby placing the judiciary at the center of public interest enforcement. Upendra Baxi termed this "social action litigation," distinguishing it from more citizen-participation-oriented PIL models.[11] *Second*, the civil society-led model, as reflected in the European Union under Directive 2020/1828 on representative actions, grants standing to qualified entities to bring claims on behalf of affected groups, thereby emphasizing the legitimacy of the litigation actor.[12] *Third*, the procuratorate-led model, characteristic of China and currently being piloted in Vietnam, confers authority on a state prosecutorial body to initiate PIL independently of direct participation by individuals or representative organizations.

The distinctiveness of this third model lies not only in the identity of the claimant but also in its underlying institutional logic. From a governance perspective, S. P. Sathe argues that courts may deploy PIL to enforce constitutional or legal obligations where administrative systems fail to act effectively.[13] The procuratorate-led model extends this logic in a more proactive direction: rather than relying on judicial initiative or civil society mobilization, the state, acting through the procuratorate, assumes the role of plaintiff to protect the public interest. As Fuhua Wang suggests in the Chinese context, PIL should be understood not merely as a dispute resolution mechanism but as a multifunctional institution that combines adjudication, oversight of public power, and participation in social governance.[14]

At the same time, this model gives rise to an inherent institutional tension. When the state simultaneously acts as both supervisor of legal compliance and litigant, the boundary between genuine public interest protection and the instrumental use of litigation risks becoming blurred. The question of procuratorial independence, particularly in relation to the executive and in cases involving state-owned enterprises or politically connected actors, thus becomes a central factor in determining the credibility and effectiveness of the model.

11 Upendra Baxi, 'Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India' (1985) 4(6) Third World Legal Studies 108 <https://scholar.valpo.edu/twls/vol4/iss1/6/> accessed 22 July 2026.

12 Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 'On Representative Actions for the Protection of the Collective Interests of Consumers' [2020] OJ L 409/1 <http://data.europa.eu/eli/dir/2020/1828/oj> accessed 22 July 2026.

13 SP Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (OUP 2002).

14 Fuhua Wang, 'Jurisprudential Foundation of Public Interest Litigation' (2024) 19(4) Frontiers of Law in China 299, <https://doi.org/10.3868/s050-013-024-0020-1> accessed 22 July 2026.

The tension outlined above is not merely theoretical. It is also reflected in European efforts to define the proper role of prosecutors outside the criminal justice system. Before applying European standards as an evaluative framework, however, it is necessary to explain why they provide an appropriate benchmark for two East Asian legal systems. The justification does not rest on any claim of universal applicability, but on the institutional lineage of the mechanism under examination. As discussed above, the procuratorates of China and Vietnam and the prokuratura of post-socialist Eastern Europe all derive from the same Soviet institutional model. The standards developed by the Council of Europe therefore address the same institutional tradition examined in this article rather than imposing an external liberal framework. Moreover, they constitute the most comprehensive and systematically developed body of principles governing the prosecutor's role outside the criminal justice sphere. For this reason, European standards are employed here not as universally applicable norms, but as the most appropriate and fully developed benchmark for evaluating a shared institutional tradition. Turning to their content, although procuratorate-led litigation is sometimes viewed as inconsistent with liberal legal traditions, the Council of Europe has recognized that, in a number of member States, public prosecutors may legitimately perform functions beyond criminal prosecution, including representing public interests, protecting human rights and fundamental freedoms, and upholding the rule of law. Recommendation CM/Rec(2012)11 does not exclude such involvement. Instead, it subjects the exercise of these powers to a series of safeguards intended to preserve the principles of a fair trial and the balance between the parties. These safeguards include a clear legal basis for prosecutorial powers, respect for the equality of arms, the continued procedural participation of the individuals whose interests are represented, and cooperation with civil society actors.[15] The European Court of Human Rights (ECtHR) has reinforced these requirements through its interpretation of Article 6(1) of the Convention, holding that prosecutorial intervention in civil proceedings must be justified by sufficiently weighty public-interest or protective considerations in order to remain compatible with the principle of equality of arms.[16]

2.3. Vulnerability Theory and the Significance of the China – Vietnam Divergence

The third analytical strand centers on the concept of vulnerability, which is integral to this article but remains underdeveloped in much of the PIL literature. In legal philosophy and human rights theory, vulnerability is not understood as an inherent personal trait but as a context-dependent condition. An individual is considered vulnerable when they

15 Recommendation CM/Rec(2012)11 (n 8) paras 12, 15.

16 *Menchinskaya v Russia* App no 42454/02 (ECtHR, 15 January 2009) paras 39-40 <https://hudoc.echr.coe.int/eng?i=001-90620> accessed 22 July 2026.

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occupy a position of particular disadvantage in protecting their own interests against certain risks of harm, as a result of the interaction between personal characteristics and structural conditions in their environment.[17] This approach carries an important legal implication: institutional interventions aimed at protecting vulnerable groups must be tailored to the specific nature of the disadvantage they face, rather than relying solely on predefined personal characteristics. For the purposes of this article, the term "vulnerable groups" is not understood in the broad sense advanced by Fineman, under which vulnerability is regarded as a universal human condition. Instead, it is used in a narrower, functional sense to refer to individuals whose ability to enforce their rights through ordinary civil litigation is substantially constrained by structural disadvantages, including economic hardship, limited legal capacity, dependency, or persistent informational and institutional barriers. In such circumstances, legal rights are unlikely to be effectively vindicated without external support. This understanding is also consistent with the approach adopted in positive law. Article 3(1) of Resolution No. 205/2025/QH15 identifies six specific categories of vulnerable persons, and it is this legally defined conception, rather than the broader theory of universal vulnerability, that provides the analytical framework for the discussion that follows.

Against this background, the divergence between Vietnam and China emerges as a point of particular theoretical significance. In China, the PIL system does not construct a unified concept of "vulnerable groups." Instead, protection is organized along sector-specific lines such as child protection, women's rights, and food safety, with primary emphasis placed on the extent to which harm affects the public interest.[18] Vulnerability, in this framework, plays a secondary role, while the principal basis for intervention remains the infringement of public interest. By contrast, Vietnam, through Resolution No. 205/2025/QH15, adopts a different approach by recognizing vulnerability as an independent and direct ground for procuratorate-initiated litigation, separate from the public interest criterion.[19] This shift from a predominantly collective model toward a more rights-based approach reflects an emerging human rights orientation. At the same time, it raises a number of unresolved issues, including the scope of application, the criteria for identifying vulnerability, and the risk of an overly expansive role for the procuratorate in the civil law field.

17 Martha Albertson Fineman, 'The Vulnerable Subject: Anchoring Equality in the Human Condition' (2008) 20(1) Yale Journal of Law and Feminism 1 <https://ssrn.com/abstract=1131407> accessed 22 July 2026.

18 Wang (n 14) 315-8.

19 Resolution of the National Assembly of the Socialist Republic of Vietnam no 205/2025/QH15 (n 5).

3 EXPERIENCE FROM CHINA IN OPERATING PROCURATORIAL PIL FOR THE PROTECTION OF VULNERABLE GROUPS

3.1. Institutional Development in China

The emergence of procuratorial PIL in China is closely linked to the institutional pressures arising from the country's transition to a socialist-oriented market economy since the 1990s.[20] As market mechanisms gradually replaced the centrally planned system, gaps in the protection of public interests became increasingly visible, particularly in relation to the loss of state assets and the limited capacity of administrative oversight. In response, several local procuratorates began experimenting with civil litigation to protect public interests, despite the absence of a formal legal basis.[21] A notable example occurred in 1997 in Henan, where a local procuratorate successfully brought a case challenging the unlawful transfer of state-owned assets. This case prompted similar practices to spread across other localities.[22] However, this period of largely spontaneous experimentation did not persist. In 2004, the Supreme People's Court issued guidance requiring courts to cease accepting such cases, effectively bringing this early phase to a close and raising fundamental questions regarding the legality and constitutional basis of procuratorial PIL.[23]

A decisive turning point came in 2014, when the Communist Party of China formally endorsed the establishment of a procuratorial PIL mechanism as part of a broader programme of legal reform.[24] This was followed in 2015 by authorization from the Standing Committee of the National People's Congress to implement the model on a nationwide pilot basis.[25] In 2017, the mechanism was formally codified through

20 Decision of the Central Committee of the Communist Party of China 'On Some Major Issues Concerning Comprehensively Deepening the Reform' (adopted 12 November 2013) <https://english.court.gov.cn/2015-10/08/c_766126.htm> accessed 22 July 2026.

21 Yu Cui, 'The Recent Development of China's System of Procuratorate Public Interest Litigation' (2018) 48(6) Environmental Law Reporter: News & Analysis 10468.

22 Alex Wang, 'The Role of Law in Environmental Protection in China: Recent Developments' (2007) 8 Vermont Journal of Environmental Law 222 <https://ssrn.com/abstract=2123980> accessed 22 July 2026.

23 Reply of the Supreme People's Court on the En'shi Prefecture People's Procuratorate v Zhang Suwen (Returning State Property) Case (promulgated 17 June 2004), discussed in: Chunyan Ding and Huina Xiao, 'A Paper Tiger? Prosecutorial Regulators in China's Civil Environmental Public Interest Litigations' (2021) 32(3) Fordham Environmental Law Review 323 <https://ir.lawnet.fordham.edu/elr/vol32/iss3/2> accessed 22 July 2026.

24 Decision of the Central Committee of the Communist Party of China 'On Several Major in Comprehensively Advancing Governance According to Law' (adopted 23 October 2014) <https://www.chinalawtranslate.com/en/fourth-plenum-decision/> accessed 22 July 2026.

25 Decision of the Standing Committee of the National People's Congress on Authorizing the Supreme People's Procuratorate to Launch the Pilot Program of Initiating Public Interest Litigation in Certain Areas (adopted 1 July 2015) <http://www.npc.gov.cn/wxzl/gongbao/2015-08/27/content_1946100.htm> accessed 22 July 2026.

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amendments to the Civil Procedure Law and the Administrative Procedure Law. This trajectory reflects an important structural feature of the Chinese model: the development of new judicial institutions is closely aligned with political direction from the central authorities. Rather than emerging organically from legal doctrine, the procuratorial PIL system represents a deliberate governance choice.

3.2. China's Legal Framework for Procuratorial PIL

The legal framework governing procuratorate-initiated PIL in China is structured around two core pillars: civil public interest litigation (CPIL) and administrative public interest litigation (APIL), each reflecting a distinct logic of state intervention in the protection of public interests.

With respect to CPIL, Article 55 of the Civil Procedure Law (as amended in 2017) authorizes the procuratorate to initiate proceedings in areas such as environmental protection, natural resources, consumer rights (particularly food and drug safety), and other public interests. However, this authority is subsidiary rather than primary. The procuratorate may act only where no authorized entity exists or where such entities fail to exercise their right to bring a claim. The requirement of a 30-day public notice period prior to filing further reinforces the procuratorate's role as a gap-filler, rather than as the primary initiator of litigation.

By contrast, APIL is structured according to a different logic, as reflected in Article 25 of the Administrative Procedure Law (as amended in 2017).[26] The procuratorate cannot proceed directly to litigation but must first undertake a pre-litigation stage by issuing procuratorial recommendations requiring the administrative agency to rectify violations. Only where the agency fails to act, or acts inadequately within the prescribed timeframe (typically two months, or 15 days in urgent cases), may the procuratorate initiate proceedings. This two-step structure highlights a defining feature of APIL in China: the prioritization of supervision and administrative compliance before resorting to judicial confrontation, reflecting a governance-oriented rather than purely adversarial approach.

Beyond this general framework, China has further expanded and embedded procuratorate-initiated PIL within a range of sector-specific statutes aimed at protecting vulnerable groups. For example, Article 106 of the Law on the Protection of Minors (amended in 2020) authorizes the procuratorate to bring actions to safeguard children's rights where no appropriate party is able to do so.[27] Similarly, Article 77 of the Law on the Protection of Women's Rights and Interests (2022) empowers the procuratorate not only to issue

26 Law of the People's Republic of China 'On Administrative Procedure' of 4 April 1989 (amended 2017) <http://www.china.org.cn/english/government/207336.htm> accessed 22 July 2026.

27 Law of the People's Republic of China 'On the Protection of Minors' (adopted 17 October 2020) <https://www.chinalawtranslate.com/en/protection-of-minors-2020/> accessed 22 July 2026.

recommendations but also to initiate litigation in cases of serious violations, including employment discrimination and sexual harassment.[28]

However, a notable structural issue lies in the overlap between the scope of CPIL and APIL, particularly in areas such as environmental protection and food safety. In practice, the procuratorate is often required to choose between procedural pathways without clear guiding criteria, meaning that such decisions are significantly influenced by considerations of enforcement efficiency and political risk. This overlap in jurisdiction not only creates inconsistencies in legal application but also blurs the boundary between the procuratorate's supervisory role over administrative bodies and its function as a civil litigant.[29]

3.3. Operational Practice in China

Empirical data on the operation of procuratorial PIL in China indicate rapid expansion in both scale and frequency. During the pilot phase from 2015 to 2017, procuratorates identified more than 11,000 instances of harm to public interests and brought 1,150 cases before the courts. Following formal codification in 2017, the number of cases increased sharply, reaching tens of thousands annually.[30] By November 2025, the total number of public interest cases handled nationwide had exceeded 1.24 million.[31]

A notable feature is the significant imbalance between the two types of proceedings, with APIL overwhelmingly dominating CPIL. Even during the pilot phase, APIL accounted for approximately 90% of cases; this proportion rose to nearly 97% by the end of 2017 and has remained above 90% in subsequent years.[32] As of 2025, there are an estimated 1.12 million administrative cases compared to around 124,000 civil cases.[33] This distribution is not incidental but reflects a consistent institutional orientation in which the supervision and correction of administrative action is prioritized over the resolution of civil disputes.

Nevertheless, these figures raise important questions that must be addressed to fully assess the nature of the model.

28 Law of the People's Republic of China 'On the Protection of Women's Rights and Interests (adopted 30 October 2022) <https://www.chinalawtranslate.com/en/law-on-protection-of-wome-2022/> accessed 22 July 2026.

29 Weijian Tang, 'Study on the Implementation Models of Procuratorial Public Interest Litigation' (2024) 19(4) Frontiers of Law in China 360 <https://doi.org/10.3868/s050-013-024-0022-5> accessed 22 July 2026.

30 ibid 361.

31 'Public Interest Litigation Grows Steadily, Top Procuratorate Says' (*Supreme People's Procuratorate of the People's Republic of China*, 10 February 2026) <https://en.spp.gov.cn/2026-02/10/c_1160488.htm> accessed 22 July 2026.

32 Tang (n 29) 361.

33 'Public Interest Litigation Grows Steadily (n 31).

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First, to what extent is procuratorial PIL instrumentalized to serve political objectives? The near-perfect success rate in cases brought by the procuratorate, together with compliance rates exceeding 97% for procuratorial recommendations, is often cited as evidence of the system's effectiveness. However, these figures may obscure a different dynamic: high success rates may result from the strategic selection of relatively straightforward, "easy-win" cases, rather than those with the greatest environmental or social impact.[34] In addition, politically sensitive cases, particularly those involving large state-owned enterprises or entities closely linked to local authorities, rarely become targets of litigation. This suggests that case selection may be shaped by strategic considerations, rather than driven purely by neutral and objective law enforcement logic. In such circumstances, the boundary between judicial function and political instrument becomes increasingly difficult to delineate.

Second, does the procuratorate operate with genuine independence in initiating litigation? In practice, the mechanism depends significantly on authorization and policy direction from the central level, as reflected in the need for formal approval by the Standing Committee of the National People's Congress before nationwide implementation.[35] At the local level, procuratorates often operate under the need to balance the pursuit of legal accountability, particularly in areas such as environmental protection, with the management of responses from local governments. This balance, however, tends to depend more on the support of provincial leadership than on a robust foundation of institutional independence.[36] More fundamentally, scholars such as Shi and Van Rooij argue that constraints arising from the Party – state structure at the local level, combined with limited technical capacity in complex fields such as environmental litigation, inhibit the development of the procuratorate into a genuinely powerful enforcement actor.[37]

Third, does the expanding role of the procuratorate risk displacing civil society actors? In formal design, the CPIL framework provides that the procuratorate may initiate litigation only where no qualified organization is available, thereby preserving space for civil society, particularly in environmental matters. In practice, however, the picture is more complex. As Campbell observes, high prosecution rates do not fully capture the underlying incentives at play.[38] There is a possibility that procuratorates may, at times, limit or fail to facilitate civil

34 Nicholas Campbell, 'Individual Rights and the Environmental Public Interest: A Comparison of German and Chinese Approaches to Environmental Litigation' (2023) 32(1) Review of European, Comparative & International Environmental Law 113-4 <https://doi.org/10.1111/reel.12466> accessed 22 July 2026.

35 See, Decision of the Standing Committee of the National People's Congress (n 25) (requiring legislative authorisation as a precondition for procuratorial PIL to operate).

36 Yueduan Wang and Ying Xia, 'Judicializing Environmental Politics? China's Procurator-led Public Interest Litigation against the Government' (2023) 253 China Quarterly 90 <https://doi.org/10.1017/S0305741022001709> accessed 22 July 2026.

37 Yifan Shi and Benjamin van Rooij, 'Prosecutorial Regulation in the Global South: Environmental Civil Litigation by Prosecutors in China Compared to Brazil' (2016) 10(1) Regulation & Governance 49-51, <https://doi.org/10.1111/rego.12112> accessed 22 July 2026.

38 Campbell (n 34) 111.

society participation in order to consolidate their own institutional role and performance outcomes. This raises an unresolved concern that, rather than functioning as a complementary mechanism, procuratorial PIL may, in practice, crowd out and narrow the operational space of civil society actors.

3.4. Application of the Mechanism to Protect Vulnerable Groups in China

As discussed in Part II, China's PIL system does not adopt a unified concept of "vulnerable groups." Instead, protection is fragmented across sector-specific legislation and is primarily structured around the degree to which harmful conduct affects the public interest, rather than the direct protection of group-based rights.

In the field of women's rights, practice reveals a clear preference for APIL, particularly through pre-litigation mechanisms. Representative cases published in 2022 by the Supreme People's Procuratorate and the All China Women's Federation show that procuratorates typically rely on investigation, public hearings and procuratorial recommendations to prompt administrative agencies to fulfil their obligations, ranging from maternity protection and occupational health to the prevention of workplace sexual harassment.[39] While this approach delivers notable governance efficiency, it also raises important concerns. Where the procuratorate prioritizes administrative channels over litigation, it remains unclear whether the rights of affected individuals are effectively enforceable, or whether the mechanism primarily promotes administrative compliance without securing long-term rights protection.

For elderly persons and persons with disabilities, the Barrier-Free Environment Construction Law of 2023 establishes a distinct structural approach.[40] Rather than focusing on discrete rights violations, the law targets systemic barriers affecting access to physical spaces, information, and social services. Under Article 63, the procuratorate is empowered to intervene through recommendations or litigation where such barriers implicate the public interest. In practice, cases from Chongqing, Hebei, Henan, Guangdong and Xinjiang indicate that procuratorates primarily address deficiencies in policy implementation and systemic governance issues, rather than individual disputes. Typical issues include failures by medical institutions to implement fee reductions for the elderly and the absence of non-voice-dependent emergency communication systems for persons with hearing impairments.[41]

39 Supreme People's Procuratorate of the People's Republic of China and All China Women's Federation, 'Typical Cases of Public Interest Litigation by Procuratorates to Protect Women's Rights' (23 November 2022) <https://zzylawyer.com.cn/yaxue/94.html> accessed 22 July 2026.

40 Law of the People's Republic of China 'On Barrier-Free Environment Construction' (adopted 28 June 2023) < http://www.csrcare.com/Law/LawShowEn?id=230263 > accessed 22 July 2026.

41 Supreme People's Procuratorate of the People's Republic of China, 'Notification on the Progress of the "Protecting People's Livelihoods" Special Campaign' (12 August 2024) <https://www.055110.com/law/1/34889.html> accessed 22 July 2026.

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Taken together, the Chinese model, as applied to vulnerable groups, reflects a preventive and governance-oriented approach. The procuratorate operates primarily as an administrative supervisory body, supplemented by judicial authority, with emphasis placed on promoting compliance rather than maximizing the protection of individual rights. However, this operational logic reveals inherent limitations as a focus on governance efficiency and compliance may constrain the development of strong rights-based standards for individual protection.

4 VIETNAM'S LEGAL FRAMEWORK FOR PROCURATORIAL LITIGATION TO PROTECT THE INTERESTS OF VULNERABLE GROUPS

4.1. Identifying Vulnerable Groups under Vietnamese Law

Vietnamese law has begun to recognize vulnerable groups within its legal framework, most notably through the Law on Protection of Consumer Rights 2023[42] and Resolution No. 205/2025/QH15.[43] However, these two instruments do more than extend or consolidate existing provisions; they reflect distinct conceptual approaches to the nature of vulnerability.

The Law on Protection of Consumer Rights 2023 marks the first time that Vietnamese law formally defines the notion of a "vulnerable consumer." Under Article 8, this category is identified based on the heightened risk of disadvantage in areas such as access to information, health, property, and the capacity to resolve disputes at the time of purchasing or using goods and services. The provision further enumerates seven categories of vulnerable consumers, including the elderly, persons with disabilities, children, ethnic minorities, individuals residing in mountainous, island, or socio-economically disadvantaged areas, pregnant women or those raising children under 36 months of age, persons with serious illnesses, and members of low-income households. This approach indicates that vulnerability is not determined solely by inherent personal characteristics, but also by the specific circumstances in which individuals engage in consumer transactions. In other words, groups such as pregnant women, older persons, or ethnic minorities are considered "vulnerable" within the context of consumer relations, rather than being treated as inherently vulnerable across all civil legal relationships.

By contrast, Resolution No. 205/2025/QH15 adopts a different conceptualization of "vulnerable groups." Specifically, Article 3(1) identifies six categories of protected individuals, including children, older persons, persons with disabilities, pregnant women,

42 Law *of the Socialist Republic of Vietnam* no 19/2023/QH15 'On Protection of Consumer Rights' (adopted 20 June 2023) <https://english.luatvietnam.vn/thuong-mai/law-on-protection-of-consumer-rights-no-19-2023-qh15-259732-d1.html> accessed 22 July 2026.

43 Resolution of the National Assembly of the Socialist Republic of Vietnam no 205/2025/QH15 (n 5).

those raising children under 36 months of age, individuals with cognitive or behavioral impairments or lacking civil capacity, and ethnic minorities living in areas with particularly difficult socio-economic conditions, without linking these groups to any specific transactional context. Unlike the more context-sensitive approach of the Law on Protection of Consumer Rights 2023, which combines personal characteristics with situational factors, Resolution No. 205/2025/QH15 defines vulnerability solely on the basis of personal status. Under this framework, vulnerability is treated as an inherent attribute that applies across all civil legal relationships, rather than arising only in specific contexts such as consumer transactions. Consequently, the scope of civil disputes that may fall within the procuratorate's authority to initiate proceedings is significantly broadened. It is no longer confined to consumer relationships but may extend to any civil matter involving individuals belonging to the listed vulnerable groups.

4.2. Characteristics and Limits of Procuratorial Litigation for Public Interest Protection in Vietnam

First, the scope of litigation is confined to civil cases. Resolution No. 205/2025/QH15 expressly limits the procuratorate's authority to initiate proceedings in civil matters, without extending it to administrative cases. This reflects a cautious institutional approach: while the procuratorate is assigned a new function, the traditional boundary between judicial supervision and administrative control is preserved. Nevertheless, this limitation raises practical concerns in situations where harm to vulnerable groups is closely linked to administrative inaction or regulatory failure. For example, where elderly individuals are defrauded by a company while the competent authority fails to conduct inspections as required, the current framework allows the procuratorate to bring claims against the company, but not to address the responsibility of the administrative body. In such cases, the effectiveness of protection may be constrained, as corporate misconduct and administrative omission often form interconnected aspects of the same problem.

Second, harm to vulnerable groups constitutes an independent ground for litigation. The use of the disjunctive "or" in the phrase "to protect the civil rights of vulnerable groups or to protect the public interest" is significant, as it permits the procuratorate to initiate proceedings even where the harm affects only a specific vulnerable group, without requiring proof of broader public impact. This reflects a shift from a collective-interest model toward a rights-based approach. However, this expansion also carries implications. In the absence of a requirement to demonstrate widespread social harm, the potential scope of intervention becomes very broad, potentially encompassing most civil disputes involving individuals such as the elderly, persons with disabilities, or children. This raises the risk of blurring the boundary between the procuratorate's supervisory function and its role as a civil litigant. In the absence of clear case-selection criteria, the tension between effective rights protection and the risk of overreach into private legal relations remains insufficiently resolved under Resolution No. 205/2025/QH15 and its implementing framework.

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Third, Vietnam's procuratorial litigation mechanism is currently in a pilot phase, reflecting a cautious institutional approach. This pilot character is evident in three respects: it is introduced by a resolution rather than a statute, limited to six localities, and subject to a three-year duration. Such a design suggests a strategy aimed at managing institutional risk, allowing the National Assembly to adjust or terminate the mechanism if it does not meet expectations. The selection of economically and socially diverse localities further indicates an intention to test the model across varied contexts, rather than implementing it nationwide from the outset. However, the Resolution does not establish clear criteria for evaluating the success of the pilot phase. Article 18(3) merely assigns the Supreme People's Procuratorate the responsibility of reporting implementation outcomes to the National Assembly, without specifying how such "outcomes" should be measured. It remains unclear whether evaluation will be based on the number of cases filed, success rates, the extent to which compensation is actually enforced, behavioral changes among violators, or feedback from vulnerable groups themselves. More broadly, the absence of defined evaluation metrics not only reduces transparency but also limits the possibility of objective assessment. As a result, decisions on whether to continue or terminate the pilot mechanism risk relying more on subjective judgment than on systematically generated and measurable evidence.

5 PROCURATORIAL LITIGATION FOR THE PROTECTION OF VULNERABLE GROUPS: A COMPARATIVE ANALYSIS OF CHINA AND VIETNAM AGAINST EUROPEAN PROSECUTORIAL STANDARDS

Before turning to the comparison, it is useful to state the criteria on which it proceeds. The two models are assessed along four axes: (i) the philosophical basis on which each justifies state intervention into private legal relations; (ii) the degree of institutionalization and legal certainty of each mechanism; (iii) the developmental trajectory each system is following; and (iv) the extent to which each conforms to the European safeguards governing the prosecutor's civil role, in particular the requirements of clearly defined powers and equality of arms. The first three axes structure the descriptive comparison in subsections A to C, while the fourth is applied throughout and drawn together in the assessment that follows.

5.1. Foundational Philosophies of State Intervention Through the Mechanism

In the Chinese system, PIL is grounded in a collectivist philosophy in which the public interest, understood as the interests of the state and society as a whole, serves as the primary basis for legitimizing intervention. The procuratorate does not act solely in response to infringements of individual rights, but because such harms are framed as manifestations of broader systemic failures in social governance. Within this logic, the protection of vulnerable groups is not rooted in the independent value of individual rights, but in the

extent to which the harms they suffer signal or generate risks to the wider social order. Vulnerability thus functions as an indicator of public interest, rather than as an autonomous legal ground for state action. This approach maintains a relatively clear boundary between the public and private spheres, as state intervention in civil relations is justified only where a demonstrable impact on the public interest can be established.

By contrast, Vietnam, through Resolution No. 205/2025/QH15, adopts a fundamentally different rights-based approach. Under this framework, the procuratorate may initiate litigation on the basis that the civil rights of individuals belonging to vulnerable groups have been infringed, without the need to demonstrate broader societal impact. Vulnerability is thereby elevated to an independent legal ground for intervention, detached from the requirement to establish harm to the public interest. This shift reorients the focus of state intervention from the protection of social order to the direct protection of individual rights. As a result, Vietnamese authorities are empowered to intervene more deeply in civil relations, even where wider social consequences are not clearly established. This approach has the potential to strengthen protection for vulnerable groups, particularly in cases where harm is individualized yet severe and difficult for affected persons to address on their own.

Despite their differences, both approaches raise a question that also occupies a central place in European standards concerning the role of prosecutors outside the criminal justice system: not whether the state may intervene to protect vulnerable groups, but how such intervention in private legal relations is to be justified. Recommendation CM/Rec(2012)11 frames prosecutorial functions outside the criminal sphere in terms of protecting human rights and representing the general or public interest, while the case law of the ECtHR similarly treats the existence of a sufficient public-interest or protective rationale as an important consideration in assessing the fairness of proceedings.

5.2. Degree of Institutionalization and Legal Stability of the Mechanism

In China, the certainty and stability of the mechanism have been firmly established since its formal codification in 2017 through amendments to the Civil Procedure Law and the Administrative Procedure Law. This reflects a high level of legal commitment that is difficult to reverse, enabling the system to operate continuously and accumulate institutional experience over time. Within this stable framework, procuratorates can define litigation strategies with greater clarity, courts can gradually standardize their approach to a novel category of cases, and regulated actors, such as corporations and administrative agencies, are better able to anticipate legal risks and adjust their conduct accordingly. Moreover, this stability facilitates the development of inter-agency coordination, internal guidance, and professional norms, all of which are difficult to sustain in a fluid legal environment.

On the other hand, Vietnam currently occupies a different institutional starting point. While Resolution No. 205/2025/QH15 provides a necessary legal basis, it remains temporary in nature, limited to a three-year period and six localities. This uncertainty may

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weaken the incentives for long-term investment in specialized expertise, dedicated personnel, and the development of consistent adjudicatory practice. Institutions may instead adopt a cautious, provisional approach during the pilot phase, rather than committing resources to optimize long-term effectiveness.

China's experience suggests that the development of such a mechanism is neither linear nor rapid. From early localized experimentation (1997), suspension (2004), revival through central political endorsement (2014), nationwide piloting (2015 – 2017) and eventual codification (2017), the process reflects a gradual accumulation of both practical experience and political acceptance. Vietnam can be seen as operating at a stage comparable to China's early pilot phase. The key question, therefore, is not only whether the mechanism can function effectively in the short term, but whether a three-year period is sufficient to generate both the empirical evidence and institutional momentum necessary for codification, or whether a longer pilot cycle will be required to achieve comparable levels of stability and maturity.

The difference between the two approaches also has implications when assessed against European standards. Recommendation CM/Rec(2012)11 requires that the powers of prosecutors outside the criminal justice system be established by law and clearly defined to avoid ambiguity. China's PIL framework largely satisfies this requirement through a comprehensive legislative structure, although certain issues concerning the interaction between civil and administrative proceedings remain unresolved. Vietnam's framework presents a different picture. Because it operates through a temporary pilot resolution and relies on vulnerability as a broadly defined trigger for intervention, the limits of procuratorial authority are less clearly specified. This does not merely raise questions regarding the practical operation of the mechanism; it also highlights a potential tension with a recognized European rule-of-law standard requiring legal certainty and clearly delimited powers.

5.3. Development Trajectories of the Mechanism

In China, the draft Law on Procuratorial PIL released in October 2025[44] indicates a shift from expansion to consolidation. Rather than further extending the procuratorate's powers, legislative efforts are now directed toward systematizing, standardizing, and harmonizing existing rules within a comprehensive legal framework. This marks a phase of institutional deepening, reflecting the "maturation" of the PIL mechanism, where the priority is no longer experimentation or expansion, but enhancing coherence, operability, and overall institutional effectiveness.

44 Draft Law of the People's Republic of China 'On Public Interest Litigation' (October 2025) <https://www.chinalawtranslate.com/en/%E4%B8%AD%E5%8D%8E%E4%BA%BA%E6%B0%91%E5%85%B1%E5%92%8C%E5%9B%BD%E6%A3%80%E5%AF%9F%E5%85%AC%E7%9B%8A%E8%AF%89%E8%AE%BC%E6%B3%95%E8%8D%89%E6%A1%88/> accessed 22 July 2026.

Vietnam, on the contrary, faces a critical juncture as the pilot phase approaches its conclusion in 2028. Should the National Assembly decide to codify the mechanism, the direction of reform remains open, with at least three plausible scenarios. *The first* is to retain the current rights-based model, confined to civil PIL, with adjustments limited to technical refinements informed by practice. *The second* is to move closer to the Chinese model by incorporating administrative PIL and reasserting the centrality of public interest as the basis for intervention. *The third* is to extend or broaden the pilot phase rather than proceeding immediately to codification, in order to accumulate further empirical data and institutional experience. The choice among these paths will depend not only on observed outcomes but also on the broader trajectory of judicial reform in Vietnam.

The significance of these developments becomes clearer when viewed against the experience of other legal systems that share the procuratorate's institutional heritage. Whereas China has continued to strengthen the role of the procuratorate in PIL and Vietnam has recently expanded its civil functions through Resolution No. 205/2025/QH15, a number of post-socialist Eastern European states have pursued reforms aimed at limiting or more closely regulating prosecutorial powers outside the criminal sphere in accordance with European rule-of-law standards[45]. This results in a notable divergence in the evolution of institutions derived from a common prokuratura tradition. This contrast places the Chinese and Vietnamese experiences within a broader comparative context and provides a useful reference point for contemporary European debates on the prosecutor's role in civil proceedings.

6 DESIGNING PROCURATORIAL LITIGATION FOR VULNERABLE GROUPS: A PROPOSAL FOR VIETNAM AND ITS EUROPEAN IMPLICATIONS

6.1. A Hybrid Procuratorial PIL Model for Vietnam

The comparative analysis indicates that neither the Vietnamese nor the Chinese model can be adopted without modification as each combines distinct strengths and limitations. Accordingly, this study proposes a hybrid model that draws selectively on Chinese experience while adapting it to Vietnam's legal and institutional context to address the structural constraints identified above.

At the theoretical level, the model rests on the premise that vulnerability and public interest are not entirely separate grounds, but rather two manifestations of the same social phenomenon. When individuals belonging to vulnerable groups suffer systematic rights

45 Tetiana A Tsuvina, 'Participation of the Prosecutor in Non-Criminal Proceedings: ECtHR Case Law and National Context' (2024) 2 Theory and Practice of Jurisprudence 58 <https://doi.org/10.21564/2225-6555.2024.26.319929> accessed 22 July 2026.

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violations, the harm also reflects a collective dimension and signals failures in markets and regulatory oversight. Recognizing this does not abandon a rights-based approach but situates individual rights within their broader social context. The proposed model comprises four core elements.

First, it integrates vulnerability with a minimum public interest threshold. Instead of maintaining a strict separation between the two grounds, the model introduces a threshold requiring (i) that a vulnerable individual's civil rights have been infringed and the individual is unable to initiate proceedings; and (ii) that the violation is repeated, systemic, or capable of affecting others within the same group, without requiring proof of large-scale societal harm. This threshold performs two functions simultaneously. On the one hand, it preserves the rights-based philosophy of Resolution No. 205/2025/QH15 by allowing the procuratorate to initiate proceedings without having to demonstrate large-scale societal impact. On the other hand, it creates a substantive filter that prevents the procuratorate from intervening in purely individual civil disputes that could be resolved through private mechanisms or legal aid. In this sense, it represents a balance between the high level of protection characteristic of the Vietnamese model and the element of control embedded in the Chinese model.

Second, the introduction of an APIL mechanism. Specifically, the model proposes granting the procuratorate the authority to initiate administrative litigation, but within a narrower and more conditional scope than in the Chinese model. In particular, the procuratorate would only be permitted to bring administrative actions in two situations: (i) where an administrative authority fails to fulfil its assigned duties in protecting vulnerable groups, and (ii) where pre-litigation mechanisms (administrative recommendations) have been undertaken but have not produced results within the prescribed time limit. Limiting APIL to the protection of vulnerable groups, rather than extending it comprehensively as in China, may be more appropriate given Vietnam's institutional starting point. Where the procuratorate has limited experience with CPIL, an immediate expansion into full-scale APIL would entail excessive risk; however, the complete absence of APIL, as in the current framework, also creates a protection gap in the longer term.

Third, the development of specific case-selection criteria. The model accordingly proposes that the procuratorate formulate and publish case-selection criteria in the form of internal guidelines within the procuracy system. These criteria should include factors such as the severity and recurrence of the violation, and the affected party's capacity for self-protection. Such a framework serves two purposes simultaneously as it constrains the scope of prosecutorial intervention from within, and it provides a basis for external oversight. This constitutes a form of accountability mechanism that is notably underdeveloped in both existing models.

These first three elements are not merely procedural requirements but safeguards that ensure that the proposed model remains compatible with fair-trial guarantees. The public

interest threshold limits prosecutorial intervention by excluding ordinary two-party disputes of the kind criticized in *Menchinskaya*. The subsidiarity requirement ensures that the procuratorate complements rather than replaces private litigation and civil-society enforcement, whereas published case selection criteria, together with the individual's continued participation as a party, promote transparency and preserve equality of arms. Taken together, these safeguards give concrete institutional effect to the principles embodied in Recommendation CM/Rec(2012)11 by translating them into clear and reviewable limits on the exercise of prosecutorial power.

Fourth, the introduction of a set of evaluation metrics for the effectiveness of the pilot mechanism. The proposed indicator framework comprises four dimensions: (i) procedural effectiveness (case resolution rates, processing time, and enforcement rates of judgments); (ii) protective impact (the actual level of compensation received by vulnerable groups); (iii) preventive impact (changes in the behavior of violating actors within the relevant sectors); and (iv) feedback from protected groups (levels of satisfaction and perceived effectiveness of protection among vulnerable individuals themselves). This fourth dimension is of particular academic significance, as it reorients the focus of evaluation from what the procuratorate does to the substantive impact on those it seeks to protect. This shift is consistent with the rights-based orientation that Vietnam has adopted as the foundation of its model.

6.2. Implications for Eastern European and EU Reform

Because the procuratorate examined in this article shares a common prokuratura heritage with post-socialist Eastern Europe, the implications of the analysis extend beyond Vietnam. The proposed hybrid model addresses a broader question that remains relevant in European debates: how can prosecutorial intervention protect vulnerable groups while remaining compatible with fair-trial guarantees and the autonomy of private parties? Three observations may be drawn in this regard.

First, for post-socialist jurisdictions in which prosecutors retain or continue to debate functions outside the criminal sphere, the proposed model illustrates one possible approach to defining and limiting such powers. European standards have consistently emphasized the need for clearly delimited prosecutorial competences in civil proceedings, particularly in light of concerns relating to the rule of law and equality of arms. At the same time, the complete withdrawal of prosecutorial involvement may leave certain vulnerable individuals without effective protection where private litigation and civil society mechanisms remain weak. The threshold proposed in this article, combining vulnerability with a minimum systemic or public-interest dimension and supported by transparent case-selection criteria, seeks to identify circumstances in which state intervention may be justified while remaining subject to meaningful limits.

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Second, the comparison highlights certain limitations of collective-redress mechanisms that rely exclusively on civil society actors. Directive (EU) 2020/1828 assumes the existence of qualified entities capable of representing collective interests through litigation. However, the effectiveness of this model may vary across jurisdictions depending on the strength and capacity of the associational sector. Emerging scholarship on the implementation of the Directive confirms this concern. Its transposition has been neither uniform nor straightforward, resulting in significant variation across Member States and leaving the effectiveness of the collective-redress framework closely dependent on the capacity and maturity of the qualified entities responsible for its operation.[46] Where such associational structures remain weak or insufficiently developed, protection gaps similar to those that prompted state intervention in China and Vietnam may continue to arise. In this respect, the conditionally scoped administrative mechanism proposed above suggests one possible means of supplementing existing enforcement structures in situations where competent authorities have failed to act and pre-litigation measures have been exhausted. The objective is not to replace representative actions but to consider how limited forms of public intervention might operate alongside them while remaining subject to the procedural safeguards required by European fair-trial standards.

Third, the analysis contributes to ongoing discussions within the Council of Europe and the Venice Commission concerning the legitimate scope of prosecutorial functions beyond criminal justice. One of the central challenges in this debate is identifying the circumstances in which state intervention in private legal relations is justified. The comparative analysis suggests that vulnerability may provide a useful criterion where structural disadvantage prevents affected individuals from effectively enforcing their own rights. Viewed in this way, the hybrid threshold proposed in this article may be understood as an attempt to give more concrete expression to the conditions under which prosecutorial intervention can remain compatible with equality of arms and the autonomy of private parties. From this perspective, the Vietnamese pilot mechanism is relevant not as a model to be replicated, but as an example of how legal systems sharing a common prokuratura heritage continue to grapple with the boundaries of prosecutorial authority in civil justice.

7 CONCLUSION

This article demonstrates that the differences between the Vietnamese and Chinese models of procuratorate-led litigation for the protection of vulnerable groups are not merely institutional but also philosophical. China grounds procuratorial intervention in the protection of the public interest, whereas Vietnam, through Resolution No. 205/2025/QH15, recognizes vulnerability as an autonomous basis for litigation,

46 Alexandre Biard-Denieul, 'Thunder Road: The Implementation of the Representative Actions Directive in Europe' (2024) 38(4) Emory International Law Review 751 <https://scholarlycommons.law.emory.edu/eilr/vol38/iss4/3> accessed 22 July 2026.

reflecting a more rights-oriented approach. Each model possesses distinct strengths and limitations. China benefits from a relatively stable and institutionalized framework but remains dependent on political support and a collective conception of public interest. Vietnam places greater emphasis on the direct protection of vulnerable individuals but lacks clearly defined limits on procuratorial intervention and does not yet incorporate administrative litigation tools capable of addressing systemic problems. Assessed against European prosecutorial standards, these limitations reflect a broader tension between the protection of vulnerable groups through state intervention and the requirements of equality of arms and clearly delimited prosecutorial powers. Because both systems share a common prokuratura heritage with post-socialist Eastern Europe, the significance of this tension extends beyond the jurisdictions examined.

On this basis, the article proposes a hybrid model that treats vulnerability and public interest not as separate grounds but as interconnected dimensions of the same justificatory framework. The model combines China's public-interest threshold with Vietnam's rights-based orientation, while adding transparent case-selection criteria and a structured evaluation mechanism for the pilot phase. Its relevance is not limited to Vietnam. By identifying conditions under which a prosecutor may legitimately initiate civil proceedings on behalf of vulnerable individuals, the model contributes to ongoing European debates on the proper scope of prosecutorial functions outside criminal justice. It also offers a possible approach for post-socialist jurisdictions seeking to define and constrain prosecutorial intervention without eliminating it entirely, while providing a comparative perspective on the limitations of collective-redress systems that rely primarily on civil-society actors.

As the Vietnamese pilot mechanism has only recently entered into force, empirical evidence remains unavailable. Future research should therefore examine its practical operation and assess the feasibility of the proposed model in light of emerging experience.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

ДЕРЖАВНЕ ЗАБЕЗПЕЧЕННЯ ДОСТУПУ ДО ПРАВОСУДДЯ ДЛЯ ВРАЗЛИВИХ ГРУП НАСЕЛЕННЯ: ДОСВІД КИТАЙСЬКОЇ ТА В'ЄТНАМСЬКОЇ МОДЕЛЕЙ ПРОКУРАТУРИ ДЛЯ РЕФОРМУВАННЯ ПРАВА КРАЇН СХІДНОЇ ЄВРОПИ ТА ЄС

Чан Нгок Хієп та Хоанг Тхі Лан Фионг*

АНОТАЦІЯ

Передумови. *Вразливі групи населення нерідко стикаються із суттєвими перешкодами у доступі до ефективних засобів юридичного захисту в межах загального цивільного судочинства, тоді як організації громадянського суспільства можуть не мати достатньої інституційної спроможності або незалежності для представництва їхніх інтересів. У відповідь на ці виклики як Китай, так і В'єтнам розширили роль органів*

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прокуратури у сфері цивільного судочинства. Китай інституціоналізував прокурорські позови в інтересах суспільства (public interest litigation) у 2017 році, тоді як В'єтнам Резолюцією № 205/2025/QH15 запровадив пілотний механізм, який уповноважує органи прокуратури ініціювати цивільні провадження для захисту вразливих груп. Хоча цей інститут зазвичай асоціюється із соціалістичними правовими системами Східної Азії, він походить із традиції прокуратури, яка досі впливає на прокурорські системи пострадянських та постсоціалістичних країн Східної Європи, де Рада Європи розробила стандарти щодо здійснення прокурорами функцій поза сферою кримінальної юстиції.

Методи. *У статті застосовано порівняльно-правову методологію, що передбачає дослідження нормативно-правової бази, інституційної побудови, становлення та розвитку китайської та в'єтнамської моделей. Крім того, обидві системи проаналізовано з урахуванням європейських стандартів діяльності прокуратури, зокрема Рекомендації Комітету міністрів Ради Європи CM/Rec(2012)11 та практики Європейського суду з прав людини щодо принципу рівності сторін (equality of arms).*

Результати та висновки. *Проведений аналіз засвідчує, що досліджувані моделі ґрунтуються на контрастних підходах. В'єтнам використовує людиноцентричну модель, орієнтовану на захист суб'єктивних прав (rights-based model), яка надає пріоритет безпосередньому захисту прав окремих представників вразливих груп, проте встановлює розмиті межі для втручання прокурора. Китай натомість застосовує модель, орієнтовану на суспільний інтерес (public-interest-oriented model), що передбачає більш структуровані нормативні межі участі держави, однак підпорядковує захист суб'єктивних прав ширшій колективній концепції суспільного інтересу. Для подолання цих недоліків автори пропонують гібридну модель, яка поєднує фактор уразливості та мінімальний поріг суспільного інтересу як єдиний критерій для звернення до суду, а також передбачає прозорі правила відбору справ і структуровану методологію їх оцінювання. Наукове значення статті не обмежується контекстом В'єтнаму та Китаю: окреслюючи умови, за яких втручання прокурора залишається сумісним із гарантіями справедливого судового розгляду, дослідження робить внесок у сучасну дискусію щодо ролі прокуратури в цивільному процесі постсоціалістичних юрисдикцій, а також пропонує практичні рекомендації для вдосконалення системи колективного захисту прав (collective redress) у праві Європейського Союзу.*

Ключові слова: *прокурорські позови в інтересах суспільства; вразливі групи; порівняльне правознавство; В'єтнам; Китай; доступ до правосуддя; Східна Європа.*