Proceeding of ICGPSH 2025 Symposium: The Globalization of Connection: Language, Supply Chain, Tariff, and Trade Wars
DOI: 10.54254/2753-7048/2025.LD24854

Research on Public Interest Litigation for Minors from the Perspective of Vulnerable Group Protection

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Abstract. As a special vulnerable group, minors pose specific difficulties with both the theoretical definition of public interest litigation scope and the construction of judicial practice procedures. The breadth and framework of fundamental legal standards have not yet been established by previous research from a variety of angles; thus, this study tends to concentrate more on the unique characteristics of minors. Relying on the concept of parens patriae and the principle of the best interests of minors, it balances the social demand for proactive expansion of public interest litigation scope with the legal need for clear definition of public interests. Through literature research, case reviews, and other methods, it proposes a framework for defining public interests with minor-specific characteristics and constructing a procedural system for litigation. This paper demonstrates that public interest litigation concerning minors indeed has unique characteristics and requires separate consideration. Such a reasonable and comprehensive definition is conducive to improving judicial efficiency and protection effects in the field of public interest litigation for minors.

Keywords: Minors, Public Interest Litigation, Public Interests, Vulnerable Group Protection

1. Introduction

Since the Supreme People's Procuratorate explicitly addressed key issues of public interest litigation (PIL) for minors in Opinions on Strengthening Juvenile Procuratorial Work in the New Era in April 2020, and until the Legislative Plan of the 14th National People's Congress Standing Committee listed the Procuratorial PIL Law as a first-category project in September 2023, PIL—particularly for minors—has increasingly become one of the core areas of national legislative work. Many scholars in China have conducted extensive research and lively discussions on related fields, focusing mainly on legal application issues such as specific types and scope.

Therefore, this paper emphasizes the special social status of minors, balances the expansionary protection of the vulnerable group status and the precise legal analysis of traditional restrictive perspectives. Moreover, it undertakes typological definitions based on judicial practice, ultimately evolving a public interest litigation theory that integrates theoretical scientificity and practical feasibility with minor protection characteristics.

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2. Defining the boundaries of PIL for minors

2.1. The extension under the concept of parens patriae

As vulnerable subjects, minors exhibit stronger social, public, and public interest attributes, manifested in four aspects:

Firstly, minors are endowed with unique rights such as the right to education and development. Thus, protecting the legitimate rights and interests of minors extends beyond merely ensuring their right to survival; it also necessitates fostering their healthy growth [1]. Secondly, minors face inherent limitations in right protection. On account of immature mentalities, limited awareness of their own interests as well as insufficient capacity to exercise rights, they often struggle in areas such as consumer protection, where minors often cannot confront businesses and face difficulties in expressing and exercising litigation claims. In terms of their environment, when guardians fail to fulfill protection obligations or even become perpetrators against minors' rights, legitimate rights and interests are difficult to effectively safeguard [2]. Thirdly, as recognized socially vulnerable groups, the infringement of individual minors' rights often signals the beginning of threats to the overall rights of minors. Finally, infringements on minors' legitimate rights and interests often simultaneously affect the interests of relatives, stakeholders, society, and the state [3].

In summary, the protection of minors' legitimate rights and interests faces complexity and gaps. Therefore, under the guidance of the parens patriae concept, it is particularly important for the state, as the "ultimate guardian," to safeguard minors' public interests, which are difficult to identify in private interest litigation through PIL systems.

Moreover, based on the "principle of the best interests of minors" stipulated in Article 4 of the Minors Protection Law, the scope of "parens patriae" should be broadly interpreted, including areas not typically classified as PIL. First, compared to general groups, minors lack mature psychological states. For example, shops around schools easily exploit minors' undeveloped mind patterns to sell low-quality blind boxes at high prices. Driven by "conspicuous consumption", although it may not directly harm general groups, this sale significantly impacts minors' physical and mental health [4]. Therefore, some scholars argue that the "interests" in minors' public interests should be comprehensively and broadly interpreted to include all real and developmental interests concerning minors' "body, mind, emotions, and will [5]."

2.2. Preventing right expansion based on legal application

While the vulnerable status of minors necessitates expanding the extension of public interests, considerations of judicial resource conservation and preventing excessive legal liability on social subjects require scope limitation based on legal analysis. According to Article 106 of the Minors Protection Law, if minors' legitimate rights and interests are infringed upon and no relevant organizations or individuals have filed a lawsuit on their behalf, the people's procuratorate may urge or support them in doing so. Moreover, if the infringement involves public interests, the people's procuratorate has the right to file a public interest lawsuit. Therefore, filing a public interest lawsuit requires satisfying two conditions simultaneously: the infringement of minors' legitimate rights and interests and the involvement of public interests.

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2.2.1. Legitimate rights and interests

From a purely jurisprudential perspective, there are currently three concepts: interests, rights, and legal interests. Undoubtedly, the scope of interests far exceeds that of rights and legal interests. According to the "sluice gate" control theory, in order to avoid improper leniency or strictness in the definition of legal interests and inconsistent practices by judicial organs, the definition of the latter two should be determined by specific institutions such as the Supreme People's Court through judicial interpretations and other means. Therefore, the distinction between rights, legal interests, and general interests lies in whether they are stipulated in specific regulatory documents.

Additionally, within the context of equally being protected by law, the degrees of protection afforded to rights and legal interests vary. To elaborate, the interests protected by law can be categorized into two types: statutory rights, which are strongly protected, and general interests, which receive weaker protection. The latter falls under the narrow definition of legal interests, which are general life interests screened by legislators as worthy of legal protection and represent the incomplete form of typified rights [6]. In summary, legitimate rights and interests should encompass the sum of rights and legally protected interests, excluding the general interests [7].

2.2.2. Public interests

Public interests are difficult to define precisely, but broadly speaking, they involve disputes exceeding direct party interests and affecting the general public [8]. Public interests are characterized by the integrity of right protection, the shared nature of right content, and the indeterminacy of right attribution. According to Article 28 of the Opinions on Comprehensively Strengthening Judicial Protection and Crime Prevention for Minors issued by the Supreme People's Court, which mentions "the physical and mental health of an unspecified majority of minors" in establishing PIL connection mechanisms, academic circles generally advocate defining public interests as the interests of an unspecified majority of minors [9].

The above are overall limitations based on specific legal provisions, but there are still slightly different details according to the particularity of minors:

When assessing potential future dangers, some cases involving minors may not affect the majority initially, but the infringement itself poses risks that could threaten more minors. For example, providing tattoo services to minors, though possibly affecting few people, constitutes a dangerous infringement with real risks, thus determining harm to the physical and mental health of an unspecified majority of minors and damage to public interests [10]. When judging public interests, therefore, it is necessary to analyze whether similar infringements or trends exist in other regions, i.e. whether there is a high likelihood of repeated infringements threatening the majority.

From the perspective of litigation results, it is undisputed that relief should be limited to restoring damaged public interests. However, compared to the general PIL system, which is essentially guided by a retrospective relief mindset, the harmful consequences of infringements on minors are continuous and cumulative, making it more difficult to effectively "restore". Therefore, minors' interests that may bring conjoint effects should be regarded as public interests.

2.3. Considerations for emerging industries and key fields

The first normative document explicitly proposing the application of procuratorial PIL in minors' rights protection was the Notice on Legally Punishing Crimes Against Kindergarten Children and Fully Safeguarding Children's Rights issued in 2017, which listed public interests enumeratively.

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The Minors Protection Law, however, adopted a more principled expression, indicating that the objects of PIL are continuously updating with social development, expanding from traditional fields like food and drug safety, campus security, and product quality to emerging areas such as online information dissemination, personal information protection, entertainment games, and tattooing [11]. Therefore, emerging fields require separate emphasis and examination to clarify PIL boundaries.

Firstly, internet poses new hidden dangers to minors' physical and mental health. As of December 2023, the number of minor internet users under 18 in China reached 196 million [12]. As mentioned, due to minors' underdeveloped mentalities, they are easily influenced by harmful content on short-video platforms. For example, the recent "Manshou-style" trend integrated vulgar culture into short videos, even becoming popular among primary students; others promoted values like "internet celebrities earn more than scholars" and "bad memes" from "silly animations." In addition to individual reports and platform supervision, PIL should become the best means of holistic regulation. However, it also faces application limitations, such as jurisdiction issues due to the internet's lack of geographical restrictions, hindering PIL advancement.

Secondly, the prevalence of blind box and trading card culture has led to uneven market quality. For example, People's Procuratorate in Hebei Province investigated unqualified blind box products, discrepancies between actual products and packaging promotions, and content unsuitable for minors, which infringed minors' legitimate rights and interests and damaged public interests [13]. While blind box and trading card culture represent new economic forms, quality and content issues require strict regulation to protect minors' public interests.

Thirdly, the low-age popularization of “ACGN culture” carries potential risks. As an imported culture, it may feature more open and bold character images and plot settings due to differing social backgrounds. For general groups, this is merely a special form of cultural expression. However, for minors, it is a fresh "new world," with impacts nearly equivalent to pornographic and vulgar information. It negatively affects minors' values and harming their public interests.

Beyond the above examples, there exist "invisible fields" that harm minors' physical and mental health and interests. The exploration of PIL scope should not be limited to traditional fields; judicial applications should reasonably expand boundaries in accordance with the law to maximize the protection of minors' legitimate rights and interests as vulnerable groups.

3. Procuratorial system procedure

3.1. The auxiliary function positioning with pre-litigation procuratorial suggestions as the core

According to Article 2 of the Procuratorial PIL Case Handling Rules and the parens patriae theory, the state should act as a supplementary protection subject, with the core function of the people's procuratorate in PIL being to fully exert supervisory functions [13]. As discussed regarding the relationship between rights and legal interests, rights have individual attribution and erga omnes effect, with right holders entitled to litigation rights according to law. Legal interests, not yet reaching the level of rights, lack individual attribution and thus have weaker individual litigability. For litigation over rights violations, individual litigation rights should be prioritized, respecting minors and their stakeholders' autonomy to decide whether to file a lawsuit and choose specific litigation methods. Procuratorial organs may only use PIL as a supplementary measure when minors' rights involve public interests and individuals cannot effectively assert rights, or when legal interests are violated and individuals lack litigation rights.

Besides individual litigation rights, procuratorial organs should also not encroach on administrative enforcement powers. If an administrative organ still fails to perform its duties

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according to law after being urged by a procuratorial suggestion, and national interests or social public interests remain infringed, the people's procuratorate shall file an administrative public interest lawsuit according to law [14]. The pre-litigation procedure is a flexible process through which procuratorial organs, in performing legal supervision functions, urge administrative organs to correct behavioral deviations via supervisory suggestions, reflecting respect for administrative enforcement powers and the limited and modest nature of supervision. That is, for public interest infringements, administrative organs typically take the lead in rectifying through law enforcement measures, while procuratorial organs can promote their due performance of duties by issuing pre-litigation procuratorial suggestions. In practice, after discovering related issues, hearings are usually conducted first, followed by issuing pre-litigation procuratorial suggestions to fulfill PIL functions within proper positioning.

Meanwhile, pre-litigation procuratorial suggestions have their own limitations. Lacking coercive force, there is a lack of necessary evaluation and assessment mechanisms for the adoption and rectification effects after relevant units receive the suggestions.

3.2. The systemic positioning of procuratorial organs

From the internal perspective of the procuratorial system, current efforts to broaden clue channels integrate procuratorial integrated performance with external supervision, emphasizing the excavation of PIL clues for minors' online protection from ordinary criminal cases, civil procuratorial cases, etc [14]. Meanwhile, as independent entities, PIL departments should take proactive initiatives to expand their own case sources, preventing them from becoming entirely affiliated to other departments.

From the perspective of the relationship between procuratorial organs and other organizations, the eligible subjects for PIL for minors need to break through traditional litigation frameworks, and build a "procuratorial organ-led, social organization-coordinated, administrative organ-connected" multi-stakeholder system [15]. The professionalism of procuratorial organs in PIL lies in their professional understanding of judicial procedures and legal application, while family situations investigation are appropriately entrusted to specialized institutions or professional social organizations, while government functional departments and social professional institutions have advantages in collecting evidence clues for damaged public interests of minors, requiring professional detection equipment and expertise.

3.3. Supplementary improvements for minors' individual limitations

The Construction Plan proposes to expand the scope of PIL cases, improve PIL legal systems, and explore the establishment of a punitive compensation system for civil PIL, which may provide new ideas for PIL for minors [16]. The punitive compensation system is essentially a special penalty system that uses private law mechanisms to achieve punitive and deterrent purposes originally undertaken by public law, serving as a private law system aimed at punishing quasi-criminal acts with strong public law color in behavioral norms [17]. Therefore, scholars have proposed that minor consumption procuratorial PIL, as an intersection of consumer civil PIL and minor procuratorial PIL, should focus on prevention, deterring and punishing individual cases to prevent such behaviors from recurring socially [5].

Thus, it can be seen that in addition to the principal application of administrative PIL, civil PIL needs measures to ensure the realization of litigation objectives. Based on procedural guarantees, PIL is not only a process of proving claims but also provides a dialogue and negotiation space for

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litigation subjects and society at large, reserving public space for social members to participate in solving major issues. Through this comprehensive justice mechanism, it promotes social harmony, enhances social cohesion, and consolidates social consensus [18]. Similar to administrative PIL, from the perspective of relief immediacy and speed, civil PIL plaintiffs are more suitable for pre-litigation negotiation with tortfeasors, issuing warnings of potential civil PIL if they fail to correct or compensate, and clarifying the tortuous acts and forms of liability to be borne, so as to achieve the same preventive purpose [19]. Correspondingly, sometimes the means of prevention do not lie in high penalties, especially for tortfeasors unable to compensate. Instead, efforts should be made to clarify the facts of the case, hold public accountability, guide subsequent case trials as judicial precedents, and widely publicize the harmful consequences to prevent potential offenders from committing similar acts [20].

4. Conclusion

This paper conducts a theoretical analysis of PIL for minors along two threads: legal application and procedural framework. It fully considers the special status of minors as a vulnerable group, makes expansionary interpretations consistent with minors' interests based on the "parens patriae concept" and the "principle of the best interests of minors," combines them with "legitimate rights and interests" and "public interests" to prevent excessive expansion, and proposes unique considerations for hidden emerging fields. From the procedural framework perspective, it analyzes typical pre-litigation procuratorial suggestions based on the main characteristics of administrative PIL, clarifies their auxiliary function considerations, and reorients procuratorial organs within the entire litigation system. In summary, this paper integrates the special status of minors as a vulnerable group into the study of PIL and puts forward unique considerations from various perspectives.

However, this article does not provide practical counter-evidence, and the content is limited to raising questions without fully offering solutions. Future research needs to be supported by practical research. It is believed that under the guidance of the general direction, future scholars will pay more attention to the uniqueness of PIL and explore special protection paths for vulnerable groups such as minors and women.

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