

VIETNAMESE LAW ON CIVIL LITIGATION TO PROTECT THE RIGHTS OF VULNERABLE SUBJECTS

LEI VIETNAMITA SOBRE LITÍGIOS CÍVEIS PARA PROTEGER OS DIREITOS DE PESSOAS VULNERÁVEIS

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Nguyen Thi The*

*Department of Civil Law and Civil Supervision, People's Procuracy University, Vietnam

Orcid: <http://orcid.org/0009-0002-0308-7568>

nguyentheks@gmail.com

Phan Van Tam**

**Senior Procurator, Deputy Director of Department No. 10, Supreme People's Procuracy, Vietnam

Orcid: <http://orcid.org/0009-0002-0501-0013>

tampv1970@gmail.com

Nguyen Thi Phuong***

***Lecturer, Ho Chi Minh City Campus, People's Procuracy University, Vietnam

Orcid: <http://orcid.org/0009-0000-0803-7482>

phuonguyen3613@gmail.com

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Abstract

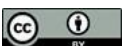
The protection of the rights of vulnerable subjects is a requirement for all nations. This reflects the function and role of the State towards society, contributing to maintaining social stability and development, and safeguarding the legitimate rights and interests of vulnerable subjects within society. In Vietnam, the protection of the civil rights of subjects belonging to the vulnerable group is ensured through multiple mechanisms, including the mechanism of civil litigation. Vietnamese law is currently being perfected to ensure that subjects within the political system responsibly exercise the right to initiate civil lawsuits to protect the civil rights of vulnerable subjects in practice.

Keywords: Civil Lawsuit Initiation, Civil Rights, Right to Initiate a Lawsuit, Vulnerable Subjects.

Resumo

A proteção dos direitos dos indivíduos vulneráveis é uma exigência para todas as nações. Isso reflete a função e o papel do Estado perante a sociedade, contribuindo para a manutenção da estabilidade e do desenvolvimento social e salvaguardando os direitos e interesses legítimos dos indivíduos vulneráveis na sociedade. No Vietnã, a proteção dos direitos civis dos indivíduos pertencentes ao grupo vulnerável é assegurada por meio de múltiplos mecanismos, incluindo o mecanismo de litígio civil. A legislação vietnamita está sendo aprimorada para garantir que os indivíduos dentro do sistema político exerçam de forma responsável o direito de iniciar ações judiciais cíveis para proteger, na prática, os direitos civis dos indivíduos vulneráveis.

Palavras-chave: Ação Judicial Cível. Direitos Cíveis. Direito de Iniciar uma Ação Judicial. Indivíduos Vulneráveis.



1 INTRODUCTION

Every nation has civil subjects belonging to the vulnerable group, regardless of that nation's political conditions or socio-economic development. These subjects include children, women, the elderly, people with disabilities, and individuals who have lost civil act capacity. These individuals have limited ability to independently seek legal measures to protect their civil rights. Vulnerable groups frequently face higher risks of infringement upon their legitimate rights and interests compared to ordinary individuals, and they often encounter difficulties in finding methods to protect these rights and interests. Ensuring the basic rights of vulnerable groups remains a significant challenge for every nation, including Vietnam.

In the Vietnamese context, the rights of vulnerable subjects and the mechanism for protecting their civil rights are stipulated in legal documents corresponding to specific regulatory areas, such as the Civil Code, the Law on Children, the Law on Disaster Prevention and Control, the Law on Consumer Protection, the Law on Civil Defence, and the Law on Legal Aid. The mechanisms established for protecting the civil rights of vulnerable subjects involve three primary routes: through the promulgation of a system of policies and laws suitable for each stage of socio-economic development; through utilising the system of state agencies; and through the system of political, social, and professional organisations. Among these, state agencies bear direct responsibility for implementing legal policies and regulations to protect the civil rights of the vulnerable group, primarily through the activities of the legislative, executive, and judicial bodies.

In particular, the assurance and promotion of civil rights protection for vulnerable subjects in Vietnam through the activities of the judicial system (People's Courts and People's Procuracies) via the civil litigation mechanism is currently an effective measure. This is particularly relevant as Vietnam begins the "pilot implementation of the People's Procuracy initiating civil lawsuits to protect the civil rights of vulnerable subjects or to protect public interests when there is no claimant". This pilot, mandated by Resolution No. 205/2025/QH15 dated June 24, 2025, of the National Assembly, starts from January 01, 2026. Nevertheless, state agencies themselves possess the potential to infringe upon the civil rights of vulnerable subjects, as the execution of public duties is influenced by various factors such as professional expertise and occupational ethics. Therefore, in recent years, in addition to perfecting the functions and duties of specific institutions, Vietnam

has continuously promoted mechanisms for inspection, supervision, and control of state power. This is intended to enhance transparency and effectiveness, aiming for the ultimate goal of protecting human rights and civil rights, especially those of vulnerable subjects.

Given this context, researching and evaluating the mechanism for protecting the civil rights of vulnerable subjects through civil litigation holds significant importance in the process of perfecting judicial institutions and frameworks, serving as a crucial foundation for safeguarding the civil rights of vulnerable subjects in Vietnam.

2 LITERATURE REVIEW

The initiation of civil proceedings to protect the civil rights of vulnerable subjects has long been recognised in Vietnamese law. However, only in recent years has this issue garnered significant research attention from scholars and experts, driven by the Vietnamese State's viewpoint, policies, and directives aimed at strengthening the protection of human rights and civil rights. Existing research has approached the protection of vulnerable groups from various perspectives, including the content of these rights, protection mechanisms, and protective solutions. Notable studies in this field include: Nguyen Huy Tien (2022) on "The Role of the People's Procuracy in Protecting Public Interests in China and Lessons Learned for Vietnam"; Le Ngoc Duy (2023) on "Perfecting the Institution of Public Interest Prosecution by the People's Procuracy to Protect Human Rights and Civil Rights"; Nguyen Thi The (2025) on "The Institution of Administrative Litigation to Protect Public and State Interests – A Trend in Perfecting Vietnamese Law in the New Era"; and Vu Thi Hong Van (2025) on "Development Trends of Vietnamese Procedural Law and the Responsibilities of the People's Procuracy".

Nevertheless, published works have yet to comprehensively analyse issues related to the institution of civil litigation for the protection of civil rights of vulnerable subjects. Consequently, building upon existing research results, this article aims to provide a deeper analysis of current legal provisions and the trend towards perfecting the institution of civil litigation to protect the civil rights of vulnerable subjects. Furthermore, it assesses the practical application of these provisions and proposes recommendations to enhance implementation effectiveness in Vietnam in the forthcoming period.

3 RESEARCH METHODOLOGY

This article employs a qualitative research methodology based on the collection and analysis of secondary data from the legal system and other documents concerning civil litigation, as well as the rights and obligations of vulnerable subjects. Relevant reports, scientific works, and reference materials are also utilised. Based on this data, the authors apply theoretical research methods such as analysis, synthesis, induction, and systematisation to clarify current legal provisions regarding the initiation of civil lawsuits to protect the civil rights of vulnerable subjects, while also assessing the effectiveness of their practical application. This approach facilitates both the generalisation of the legal landscape and the identification of limitations and inadequacies that require refinement to improve the protection of human rights and civil rights in Vietnam.

4 RESULTS AND DISCUSSION

4.1 Overview of vulnerable subjects and the interests of vulnerable entities

The scope of vulnerable subjects is extensive, encompassing Children, the elderly, people with disabilities, women who are pregnant or raising children under 36 months of age, individuals with difficulties in cognition and controlling their behaviours, individuals who have lost civil act capacity, and ethnic minorities residing in areas with especially difficult socio-economic conditions as prescribed by law. Consequently, there cannot be a singular common policy and law applicable to all vulnerable subjects; instead, their rights are addressed in various specialised legal instruments, such as:

The civil rights of children are recognised in the 2013 Constitution (amended and supplemented in 2025) and further specified in the 2016 Law on Children, the 2015 Civil Code, and the Law on Marriage and Family. These documents recognise the fundamental rights of children, such as measures for care and education, child protection at three levels (prevention, support, intervention), ensuring children's participation in matters concerning them, and stipulating the responsibilities of agencies, organisations, educational institutions, families, and individuals in the care and protection of children.

The civil rights of people with disabilities are recognised in the 2013 Constitution (amended and supplemented in 2025) and specified in the 2010 Law on Persons with

Disabilities (amended and supplemented in 2014). This legislation mandates the assurance of rights for persons with disabilities. In addition to basic civil rights, persons with disabilities have rights such as equal participation in social activities, independent living, community integration, exemption or reduction of certain social contributions, eligibility for monthly allowances, healthcare and functional rehabilitation, and legal aid.

The civil rights of the elderly are stipulated in the 2013 Constitution (amended and supplemented in 2025) and detailed in laws such as the 2009 Law on the Elderly; the 2008 Law on Health Insurance (amended and supplemented in 2014); and the 2009 Law on Medical Examination and Treatment (amended and supplemented in 2017). These laws define the rights and benefits of the elderly, including ensuring basic needs (food, clothing, travel, healthcare), priority when using services, provision of conditions for participation in cultural, educational, sports, entertainment, and rest activities, and exemption from regulated social contributions.

The civil rights of ethnic minorities residing in areas with especially difficult socio-economic conditions are recognised in the 2013 Constitution (amended and supplemented in 2025) and concretised through State policies. These policies are reflected in Government Decrees, Prime Ministerial Decisions, and Circulars issued by specialised Ministries. They aim to uniformly implement ethnic minority policies in Vietnam, ensuring civil rights through policies related to investment and resource utilisation, sustainable development, education and training, cultural preservation and development, and sports development in ethnic minority areas.

Thus, although vulnerable subjects are a very broad category regulated by numerous legal documents, they share the following common characteristics:

Firstly, they face difficulties accessing societal resources or essential services due to various factors such as financial constraints, poor health, low educational attainment, or being victims of discrimination.

Secondly, their ability to exercise their rights or seek protective resources and measures is often restricted due to barriers like stigma, discrimination, and financial hardship. They rely primarily on support policies and programs provided by the State and the community.

Thirdly, they are subjects at high risk of rights infringement, stigma, or violence, stemming from a lack of capacity or limitations in awareness, health, or conditions for participation in social relations.

Therefore, establishing mechanisms to guarantee civil rights for vulnerable subjects through various forms, such as legal protection measures, supported access to services, enhancing social awareness, and building an equitable and sustainable society, not only helps them protect their own civil rights but also contributes to building a fair, cohesive, and sustainably developing society.

4.2 Legal provisions on initiating civil lawsuits to protect the civil rights of vulnerable subjects

Regulations concerning the initiation of civil lawsuits to protect the civil rights of vulnerable subjects are specifically stipulated in the 2015 Civil Procedure Code (amended and supplemented in 2025).¹ The provisions on initiating civil lawsuits to protect the rights of vulnerable subjects include the following content regarding:

The subjects entitled to initiate lawsuits and the conditions for initiating civil lawsuits to protect the civil rights of vulnerable subjects.

The first, state management agencies on family affairs, state management agencies on child affairs, and the Vietnam Women's Union, within the scope of their assigned duties and powers, have the right to initiate lawsuits concerning marriage and family in cases involving: changing the direct custodian of a child; restricting the rights of parents toward a minor child; determining the parent(s) for a minor child or an adult who has lost civil act capacity; determining the child for parent(s) who are minors or have lost civil act capacity; and compelling individuals who fail to fulfil their alimony obligations to perform those obligations.²

The second, Labour collective representative organisations have the right to initiate labour lawsuits when it is necessary to protect the lawful rights and interests of the collective of labourers or when authorised by workers, as prescribed by the Labour Code.

The third, Social organisations participating in consumer rights protection have the right to initiate lawsuits to protect consumer rights as stipulated by the Law on Consumer Rights Protection. To qualify as a social organisation participating in consumer

¹ Clauses 1, 2, 3, and 5, Article 187 of the Civil Procedure Code 2015 (as amended and supplemented in 2025).

² Clause 5, Article 84; Clause 2, Article 86; Clause 3, Article 102; and Clause 2, Article 119 of the Law on Marriage and Family 2014.

protection, the subject must meet the criteria: i) The organisation is established in accordance with the law and operates under a charter allowing participation in consumer rights protection; ii) The consumer protection activities of the social organisation must comply with legal provisions.³

The fourth, individuals have the right to initiate marriage and family lawsuits in the following instances: initiating a request for the Court to grant a divorce when one spouse suffers from a mental illness or other disease that renders them unable to recognise or control their behaviours; when they are a victim of domestic violence caused by their spouse which seriously affects their life, health, or spirit; requesting a change in the direct custodian of a child after divorce when the current custodian is no longer fit to directly care for, nurture, or educate the child; requesting restriction of parental rights toward a minor child; determining parent-child relationship where the requesting person has died; determining the parent(s) for a minor child or an adult who has lost civil act capacity; determining the child for parent(s) who are minors or have lost civil act capacity; and compelling individuals who fail to fulfil their alimony obligations to perform those obligations.⁴

The responsibility of agencies, organisations, and individuals to initiate lawsuits to protect the civil rights of vulnerable subjects demonstrates the commitment of Vietnamese society and the State to ensuring their rights and interests. Agencies and organisations assigned duties by the state are responsible for monitoring, inspecting, tracking, and assessing the infringement situation of the civil rights of vulnerable subjects to promptly detect violations and proceed with civil litigation. This allows them to request the competent People's Court to execute civil procedure sequences to protect the lawful rights and interests of these subjects, thereby contributing to building an equitable and developed society.

Regarding the procedure for initiating and resolving civil lawsuits to protect the rights of vulnerable subjects.

Upon detecting acts infringing upon the rights of vulnerable subjects, the competent agencies or organisations proceed with initiating the lawsuit according to the following sequences:

³ Article 49 of the Law on Consumer Protection 2023.

⁴ Clause 2, Article 51; Clause 5, Article 84; Clause 2, Article 86; Article 92; Clause 3, Article 102; and Clause 2, Article 119 of the Law on Marriage and Family 2014.

First, collecting information and documents related to the infringement upon the rights of the vulnerable subjects.

Second, submitting the statement of claim to the competent Court. The agency or organisation entitled to initiate the lawsuit must fully comply with civil procedure law regarding the form and content of the statement of claim and submit the statement along with attached documents and evidence demonstrating the infringement upon the lawful rights and interests of the vulnerable group.

Third, the Court accepts the case, notifies the relevant parties,⁵ and conducts the first-instance trial procedure if all required conditions are met. To resolve the case, the Court compiles the case file and organises hearings for the access and disclosure of evidence. Disclosed evidence may be provided by the litigants to the Court or collected by the Court itself. The parties may reconcile themselves or request the Court to mediate and recognise the agreement of the litigants to resolve the case swiftly and prevent unnecessary expenditure for the parties. If the parties cannot reach a self-agreement, the Court shall open a court session to conduct the first-instance trial.

Fourth, appeal, protest, and appellate review. In the event of disagreement with the judgment or decision of the first-instance Court, the litigant has the right to appeal, and the People's Procuracy has the right to protest, requesting the superior Court to resolve the case through appellate procedure. A first-instance judgment or decision that is appealed or protested does not yet take legal effect. Upon receiving the appeal from a litigant or the protest from the People's Procuracy, the appellate Court registers the case and re-trials the case according to legal provisions. The appellate Court has the authority to uphold, amend, or annul the first-instance judgment for re-trial. The appellate judgment takes legal effect and is implemented in practice according to civil judgment execution regulations.

4.3 Advantages and difficulties arising from legal provisions on initiating civil lawsuits to protect the civil rights of vulnerable subjects

Regarding the Advantages:

⁵ Articles 195 and 196 of the Civil Procedure Code 2015 (as amended and supplemented in 2025).

Firstly, the provision allowing the initiation of civil lawsuits to protect the rights of vulnerable subjects constitutes an effective mechanism for safeguarding their civil rights when infringed upon. While Vietnamese law grants individuals, agencies, and organisations the right to initiate lawsuits themselves or through legal representatives at a competent Court to request the protection of their lawful rights and interests,⁶ vulnerable subjects often face restrictions in accessing self-protection mechanisms. Consequently, the Civil Procedure Code provisions facilitate authorised agencies or organisations to initiate civil lawsuits on behalf of these vulnerable subjects, thereby enhancing the protection of their civil rights.

Secondly, the implementation of the Civil Procedure Code, together with other relevant legal provisions, serves as a crucial foundation for courts to conduct proceedings in accordance with the proper procedural order when considering and resolving civil cases involving the protection of vulnerable persons. This procedural framework enhances judicial effectiveness and helps minimise potential infringements of the lawful rights and interests of these individuals that could arise from the actions or omissions of procedural authorities themselves.

Thirdly, these regulations strengthen coordination and responsibility among agencies and organisations when performing their assigned management tasks or acting in a representative capacity. This enables the timely detection of infringing acts against the rights of vulnerable subjects, allowing for the initiation of lawsuits requesting the Court to protect their legitimate rights and interests.

Regarding Difficulties and Challenges:

Firstly, Vietnamese law lacks comprehensive regulations defining vulnerable subjects. Prior to Resolution 205/2025/QH15,⁷ questions regarding the criteria for identifying vulnerable subjects and which specific groups qualified remained inconsistent. Resolution 205/2025/QH15 (effective January 01, 2026) defines the vulnerable group as: children, the elderly; people with disabilities, women who are pregnant or raising children under 36 months of age, individuals with difficulties in cognition and controlling their behaviours, and individuals who have lost civil act capacity; and ethnic minorities residing in areas with especially difficult socio-economic

⁶ Article 186 of the Civil Procedure Code 2015 (as amended and supplemented in 2025).

⁷ Resolution No. 205/2025/QH15 dated 24 June 2025 of the National Assembly Stipulates the “Pilot Implementation Allowing the People’s Procuracy to Initiate Civil Lawsuits to Protect the Civil Rights of Vulnerable Groups or to Safeguard Public Interests in Cases Where No Plaintiff is Available.”

conditions. However, the definition of vulnerable subjects in Resolution 205/2025/QH15 is still considered insufficiently aligned with the realities of domestic social life. A review of vulnerable subject protection mechanisms in other nations reveals a diverse array of approaches to determination, often leading to a broader inclusion of vulnerable subjects. For example, in China, approached from the perspective of anti-discrimination, vulnerable subjects requiring protection include: people with disabilities, ethnic minorities, pregnant women and those raising young children, migrant workers, and individuals carrying infectious diseases.⁸ Similarly, in the US, approached from the perspective of healthcare access, vulnerable populations include: economically disadvantaged individuals, racial and ethnic minorities, uninsured children, low-income individuals, the elderly, the homeless, those infected with Human Immunodeficiency Virus (HIV), and those suffering from other chronic diseases, including severe mental illness.⁹ Broadening the criteria for identifying vulnerable subjects would contribute to ensuring timely, complete, and effective protection of the rights of these disadvantaged subjects.

Secondly, despite Vietnamese law recognising the right to initiate civil lawsuits to protect vulnerable subjects, the legal provisions are often general and principled. This renders their application challenging in dispute resolution, limiting feasibility. Beyond the general provision on the right to initiate a lawsuit, Vietnamese law lacks specific regulations on the procedure for exercising this right and the resolution process for this specialised type of case. Consequently, agencies and organisations authorised to initiate lawsuits often hesitate, feel confused, and fail to act proactively. To date, several authorised agencies and organisations have yet to initiate a single lawsuit, resulting in situations where the lawful rights and interests of vulnerable subjects are infringed upon but remain unprotected in a timely and effective manner.

Thirdly, vulnerable subjects are typically disadvantaged in society, and due to limitations in awareness and other conditions, they often do not proactively seek out competent agencies or organisations to request the protection of their lawful rights and interests. For instance, victims of domestic violence frequently regard the issue as a private family matter, fearing publicity or ridicule, and thus endure and accept the abuse.

⁸ <https://www.isdp.eu/publication/taking-stock-of-chinas-anti-discrimination-legislation/>, accessed on 21 October 2025.

⁹ <https://www.ajmc.com/view/nov06-2390ps348-s352>, accessed on 24 October 2025.

This poses difficulties for agencies and organisations when trying to prove the necessary condition of "being abused" for initiating a lawsuit.

Fourthly, the law governing the initiation of civil lawsuits to protect vulnerable subjects is not thorough. The Civil Procedure Code grants agencies and organisations the right to initiate civil lawsuits to protect the lawful rights and interests of vulnerable subjects, yet it lacks sanctions for cases where these agencies or organisations, within the scope of their duties and powers, detect an infringement upon the vulnerable subject's rights but fail to exercise their right to initiate a lawsuit. If these agencies or organisations do not initiate the lawsuit, the Court cannot protect those lawful rights and interests through civil procedure.

This current reality demonstrates that the mechanism for initiating civil lawsuits to protect the civil rights of vulnerable subjects has not been truly effective. To rectify these shortcomings, Vietnam issued the Resolution on "pilot implementation of the People's Procuracy initiating civil lawsuits to protect the civil rights of vulnerable subjects or to protect public interests"¹⁰ when there is no claimant. Accordingly, if the agencies or organisations entitled to initiate a lawsuit fail to do so, the People's Procuracy will initiate the civil lawsuit before the Court to protect the lawful rights and interests of vulnerable subjects. This action is taken when the Procuracy "has notified and recommended the agency, organisation, or individual to exercise their right and responsibility to initiate a lawsuit as prescribed by law, but no claimant has emerged". The resolution takes effect from January 01, 2026. This strongly affirms the Vietnamese State's perspective on protecting human rights and civil rights, especially safeguarding the rights of disadvantaged subjects in society.

5 CONCLUSION

In the context of Vietnam building and perfecting a socialist rule-of-law state, the effective respect, guarantee, and protection of human rights and civil rights remain one of the consistent objectives of the Vietnamese State. Therefore, the institutionalisation of constitutional principles and the clarification of State agencies' responsibilities in

¹⁰ Resolution No. 205/2025/QH15 dated 24 June 2025 of the National Assembly on the Pilot Implementation Allowing the People's Procuracy to Initiate Civil Lawsuits to Protect the Civil Rights of Vulnerable Groups or to Safeguard Public Interests.

safeguarding these rights are crucial for ensuring rapid yet sustainable national development grounded in justice and equality.

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Authors' Contribution

All authors contributed equally to the development of this article.

Data availability

All datasets relevant to this study's findings are fully available within the article.

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