

## Article

# Research on the Scope of Administrative Public Interest Litigation in China

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**Abstract:** With the deepening development of national governance modernization, a structural leap has emerged in the public consciousness of the rule of law. This awakening manifests not only in the strengthening of demands for private rights protection but also in institutional expectations for judicial mechanisms to safeguard public interests. As an institutional innovation transcending the traditional framework of administrative litigation, administrative public interest litigation has achieved preliminary normative construction. However, the scientific delineation of its jurisdictional scope still faces practical dilemmas at the level of legal hermeneutics. Serving as the core category of this system, the jurisdictional scope directly determines the boundary of judicial review over administrative power, thereby influencing the efficacy of judicial remedies for public interests and the institutional tension of administrative regulation. Through typological analysis, this study proposes that the rational construction of the jurisdictional scope should follow a trinity regulatory path encompassing "legal interpretation, categorical enumeration, and procedural safeguards": first, establishing statutory interpretive criteria for public interests; second, constructing a composite legislative paradigm of "abstract norms + concrete enumeration"; third, incorporating procedural mechanisms for public participation; ultimately achieving dynamic equilibrium between public interest remediation and administrative efficiency through professional adjudication by litigants.

**Keywords:** administrative public interest litigation; jurisdictional scope; public interest; judicial review; typological analysis

## 1. Introduction: Research Background and Significance

### 1.1. Research Background

In recent years, China has witnessed rapid socio-economic development. As citizens enjoy an improved standard of living, they have become increasingly concerned with safeguarding their rights and interests [1]. While administrative authorities play a crucial role in ensuring social stability and economic growth, the exercise of administrative power inevitably encroaches upon public interests to some extent. The Administrative Litigation Law adopts a legislative model known as the "four major areas and others", drawing public attention to environmental and resource protection, food and drug safety, the protection of state-owned assets, and the transfer of state-owned land use rights [2]. However, in practice, public interest infringements occur frequently in other domains as well. Due to the ambiguous definition and scope of public interest, judicial remedies are often unavailable for infringements in areas not explicitly enumerated by law.

This study builds upon the theoretical framework of the scope of administrative public interest litigation and examines the limitations and challenges within the current legislative framework in China. By analyzing these issues, the paper proposes feasible recommendations to safeguard public interests, thereby contributing to the development and improvement of administrative public interest litigation.

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## 1.2. Literature Review

As an emerging institutional arrangement in China, administrative public interest litigation plays a pivotal role in the establishment of a law-based government. The determination of its scope is of great significance in advancing the rule of law in the country [3]. Theoretically, academic research on the scope of administrative public interest litigation remains in an exploratory stage, and further in-depth studies are required. This paper focuses on the current state and challenges associated with the scope of administrative public interest litigation in China and puts forward relevant suggestions.

Expanding the scope of administrative public interest litigation to include pressing concerns of the public can effectively address their aspirations for a better life while strengthening public interest protection. At the same time, such an expansion can compel the government to fulfill its functions in accordance with the law, preventing inaction or misconduct. Ultimately, this would contribute to a more harmonious and just society [4].

## 2. Fundamental Theories on the Scope of Administrative Public Interest Litigation

### 2.1. Concept of Administrative Public Interest Litigation

Research on the public interest litigation system in China began relatively late but has developed rapidly, forming a relatively complete theoretical and practical framework. Domestically, administrative public interest litigation is generally understood as litigation initiated by specific entities with standing, such as designated state organs, relevant organizations, and individuals authorized by law, against actions that infringe upon national interests, social public interests, or the rights of unspecified individuals. The purpose of such litigation is to hold violators accountable under the law through judicial proceedings.

The scope of administrative public interest litigation refers to the range of cases that courts are authorized to adjudicate within this category of litigation. It also defines the extent to which procuratorial organs can initiate lawsuits. Additionally, it reflects the entities that have standing to file such cases and the types of cases accepted by the people's courts. The scope of administrative public interest litigation is closely related to the interdependent and counterbalancing relationship among the supervisory power of procuratorial organs, the administrative power of government agencies, and the adjudicatory power of the courts. In other words, this scope delineates the types of cases that procuratorial organs may bring before the people's courts, the areas in which administrative entities' infringement of public interests warrants judicial intervention, and the range of cases that courts are legally authorized to accept and review.

### 2.2. Evolution of the Scope of Administrative Public Interest Litigation

Before 2014, the scope of administrative public interest litigation was only sporadically referenced in a few regulatory documents. In July 2015, the Standing Committee of the National People's Congress (NPC) made a decision to pilot public interest litigation, granting the Supreme People's Procuratorate (SPP) authorization to conduct a two-year pilot program in 13 provinces. At the conclusion of the pilot period, in June 2017, the NPC Standing Committee amended the *Administrative Litigation Law*, incorporating "food and drug safety" as an area within the four major fields of administrative public interest litigation. With the acceleration of legislative reforms, the scope of administrative public interest litigation expanded accordingly [5].

In recent years, newly enacted or amended laws addressing juvenile protection, workplace safety, personal data protection, and the rights and interests of military personnel have incorporated provisions for public interest litigation. This has resulted in a shift from the traditional "four major fields" to a "4+5" framework. Additionally, the June 2022 amendment to the *Anti-Monopoly Law* reinstated provisions for public interest litigation. These legislative developments have refined and improved the framework governing administrative public interest litigation [6].

The development of administrative public interest litigation can be categorized into three distinct stages. The first stage, which occurred during the early pilot period from 2015 to 2016, marked a groundbreaking phase as landmark cases emerged, setting the precedent for future litigation. This period laid the foundation for a series of reforms that facilitated the system's rapid expansion.

The second stage, from 2016 to 2017, witnessed an accelerated institutionalization of administrative public interest litigation. In September 2016, the Supreme People's Procuratorate mandated that 60 percent of grassroots procuratorates in pilot regions eliminate gaps in public interest litigation by the end of the year. The authority for case approval was also delegated to provincial procuratorates. As a result, from July 2016 until the completion of the pilot program, the number of cases increased dramatically. Statistical data from pilot regions indicate that procuratorial organs accepted a total of 7,786 public interest litigation cases, with 5,579 cases related to environmental protection and resource conservation, 62 cases concerning food and drug safety, 858 cases regarding the transfer of state-owned land use rights, and 1,387 cases related to the protection of state-owned assets. Environmental cases constituted the largest proportion, reflecting the growing importance of environmental concerns in administrative public interest litigation. With increasing public awareness and legal reforms, China has positioned administrative public interest litigation as a crucial mechanism for advancing environmental protection efforts.

The third stage, which began in 2017 following the formal amendment of the *Administrative Litigation Law*, marked the full development of administrative public interest litigation. This phase saw an exponential increase in the number of cases, with administrative public interest litigation becoming the predominant form of public interest litigation, accounting for 89 percent of all such cases. The growing enforcement of legal measures against administrative misconduct, coupled with heightened public legal awareness, has contributed to a decline in government agencies' unlawful inaction and dereliction of duty. In 2018, the total number of administrative public interest litigation cases reached 108,767, nearly ten times the total in 2017. Among these cases, food and drug safety accounted for 41,118 cases, while environmental protection and resource conservation represented 59,312 cases. From this point onward, administrative public interest litigation has gained significant momentum, evolving into a transformative legal instrument for protecting public interests and promoting the rule of law.

### 3. Expansion of the Scope of Administrative Public Interest Litigation in China

#### 3.1. Establishing Clear Criteria for Defining the Scope of Public Interest Litigation

Firstly, the criteria for identifying the subject of public interest litigation should be clarified. Public interest, by definition, belongs to all members of society and is characterized by its non-exclusivity and collective nature. The object of public interest litigation must also reflect these attributes, meaning that administrative violations targeted at private rights should be excluded from its scope. Only when the rights and interests of an indeterminate majority or the entire public are harmed, or are at imminent risk of being harmed by illegal administrative acts, should procuratorial organs be entitled to initiate administrative public interest litigation against acts of administrative omission or misconduct.

Secondly, the criteria for determining administrative acts subject to litigation should be defined. Article 25, Paragraph 4 of the *Administrative Litigation Law* explicitly grants procuratorial organs the authority to supervise administrative agencies engaged in unlawful acts or administrative inaction in public interest litigation cases. This provision establishes the standard for determining the types of administrative acts that fall within the scope of public interest litigation and aligns with the principle of legality review set forth in Article 6 of the same law. The development of administrative public interest litigation should proceed progressively, ensuring that, in accordance with Article 53 of the *Administrative Litigation Law*, the review of illegal administrative actions also encompasses the

examination of regulatory documents, excluding those classified as formal administrative regulations.

Thirdly, the criteria for determining the consequences of public interest infringements should be clearly defined. The *Administrative Litigation Law* stipulates that public interest litigation applies when national or social public interests are harmed. However, it is necessary to specify the specific consequences that constitute such harm. Cases involving widespread impact, significant losses, frequent occurrence, severe social consequences, or strong public concern should be classified as instances of public interest infringement. Furthermore, these consequences should not be limited to actual harm but should also include potential harm. Conduct that poses a serious threat to the personal safety, property security, or fundamental social interests of an indeterminate majority should be incorporated into the evaluative criteria, thereby formally extending the scope of public interest litigation to include such cases.

Fourth, the necessity of initiating litigation should be considered when defining its scope. Administrative public interest litigation is specifically designed to address violations in certain domains. The selection of these domains should be guided by the necessity of judicial intervention. Given the limitations of judicial resources, it is important to prevent unnecessary overuse of public interest litigation. If disputes in a given area can be effectively resolved through traditional legal mechanisms such as administrative litigation, civil litigation, or civil mediation, there should be no need to initiate public interest litigation proceedings.

### 3.2. Expanding the Scope of Protected Interests for Administrative Counterparties

The subject of public interest litigation is an indeterminate majority or the general public, and its object is non-exclusive in nature. In most cases, illegal administrative actions do not affect specific individuals' rights or obligations. As a result, the procuratorial organs' authority to initiate public interest litigation is confined to cases where public interests are, or are at risk of being, harmed by unlawful administrative actions, and where there is no specific injured party who can independently file a lawsuit or where individual litigation would be insufficient to remedy the harm. The core aspect of public interest is its collective nature, and cases with clear private interests should be excluded from public interest litigation.

For example, in the case of Bijie City Qixingguan District People's Procuratorate v. Bijie City Qixingguan District Environmental Protection Bureau for Failure to Perform Administrative Duties, the court found that no other citizen, legal entity, or organization was in a position to initiate public interest litigation. As a result, the procuratorial organ, acting as a public interest litigant, was entitled to bring an administrative lawsuit against the defendant, an administrative agency responsible for environmental protection and resource conservation that had engaged in unlawful administrative inaction.

When administrative agencies engage in unlawful inaction or issue illegal administrative decisions, an indeterminate number of administrative counterparties may face actual or potential threats to their rights and interests. In such cases, these affected individuals may initiate lawsuits to safeguard public interests and the rights of the broader community. However, under China's existing *Administrative Litigation Law*, the scope of litigable interests is limited to legally recognized and existing rights, excluding potential future interests. This legal framework may fail to provide adequate protection for the rights of indeterminate administrative counterparties.

All legitimate rights and interests that suffer infringement should be afforded legal remedies. In judicial practice, courts have increasingly integrated litigation theories with case-specific considerations, using judicial discretion to recognize violations that threaten potential future interests. To better protect public interests, the scope of interests covered by administrative public interest litigation should be expanded. A preventive approach

should be adopted, ensuring that potential interests are formally incorporated into the scope of administrative public interest litigation through legislative reform.

#### 4. Conclusion

With the rapid advancement of science and technology and the continuous improvement of socio-economic conditions, public awareness of legal rights and the protection of public interests has significantly strengthened. As citizens increasingly recognize the importance of safeguarding public interests, the administrative public interest litigation system has emerged as a crucial legal mechanism to address unlawful actions by administrative agencies. This system aims to uphold social public interests and promote social stability by holding administrative authorities accountable for violations. Although administrative public interest litigation has been formally established for only six years since its pilot implementation, its institutionalization represents a significant milestone in the development of China's *Administrative Litigation Law*. As an evolving legal framework, administrative public interest litigation not only reflects the public's growing consciousness of protecting collective interests but also plays a vital role in advancing the rule of law in China.

The scope of cases accepted under administrative public interest litigation constitutes a fundamental aspect of this legal system. Expanding this scope is essential for ensuring judicial oversight over administrative power and preventing its abuse, thereby safeguarding social public interests. Judicial practice in recent years has demonstrated a trend wherein procuratorial organs are gradually broadening the fields covered by public interest litigation. The exercise of prosecutorial authority is no longer confined to the four explicitly defined legal domains, signaling the need for a more comprehensive and adaptive legal framework.

Through this research, it has become evident that China's legislative model and related institutional standards governing the scope of administrative public interest litigation still require further refinement and improvement. The expansion of case acceptance beyond the traditional four domains remains an urgent issue. Given the author's limited academic background and expertise, further study and research are necessary to deepen the understanding of this evolving legal field. This paper explores the fundamental theoretical concepts underlying the scope of public interest litigation, analyzes judicial practices in key litigation areas through case studies, and identifies the existing trend toward expanding the scope of accepted cases. By referencing relevant institutional experiences from both common law and civil law jurisdictions, this study seeks to contribute to the enhancement of China's administrative public interest litigation system.

In response to the current limitations and challenges associated with the scope of administrative public interest litigation in China, this paper proposes recommendations for expanding its coverage. Looking forward, it is hoped that the scope of administrative public interest litigation will be further refined and improved to accelerate the development of the rule of law in China. While this study has certain limitations, the author remains committed to continuous learning and in-depth exploration of this legal field, aspiring to make a modest contribution to the advancement of China's administrative public interest litigation system.

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