The Indian Class Action(s): How Effective Can They Be?

Brian Fitzpatrick & Randall Thomas
Vanderbilt Law School
THE INDIAN CLASS ACTION(S)

- Sections 241 & 245 of the Companies Act of 2013
- Order 1, Rule 8 of the Civil Procedure Code
- The Consumer Protection Act of 1986
- The Competition Act of 2002
- Articles 32 & 226 of the Indian Constitution
FIVE METRICS OF EFFECTIVE CLASS ACTIONS

Scope
Standing
Membership
Remedies
Financing
The Indian Class Action(s)

- **Scope:**
  - Strong: securities, consumer, antitrust, government, etc.

- **Standing:**
  - Strong: private + NGO + government

- **Membership:**
  - Uncertain: Section 245 is opt out, but the others are unclear
THE INDIAN CLASS ACTION(S)

- **Remedies:**
  - **Mixed:**
    - Civil Procedure Code: injunctions
    - Consumer Act: damages
    - Others: both

- **Financing:**
  - **Weak:**
    - Loser pays + no contingency fees + sanctions under the Companies Act
    - Public subsidy under the Companies Act
    - Third-party financing?
Recommendations:

• Opt out beyond Companies Act
• Complete remedies under Civil Procedure Code and Consumer Act
• Contingency fees and/or third-party financing