

**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?

# THE INDIAN CLASS ACTION(S)

## Recommendations:

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