# Civic Space Brief

UNITED NATIONS HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

# Strategic Lawsuits Against Public Participation (SLAPPs)

*This briefer is based on Human Rights Council report A/HRC/63/47*
*Refer also to the UN Human Rights briefer on the impact of SLAPPs on human rights and how to respond.*

## What are SLAPPs?

SLAPPs refer to civil or criminal lawsuits or threats of legal action which use abusive litigation tactics with the aim or effect of suppressing public participation and critical reporting on public interest matters.

SLAPP filers utilize legal frameworks, such as financial regulations and defamation, privacy, criminal liability, and cybersecurity laws, to target journalists and human rights defenders, including Indigenous community leaders, environmental defenders, trade unionists, whistle-blowers, and academics. **SLAPPs seek to or have the effect of draining, bankrupting, or otherwise deterring defendants**, rather than succeeding on their legal merit.

SLAPPs are **used worldwide, irrespective of legal traditions and judicial systems, by State and non-State actors,** often business actors.

Increasingly, they are being used **across borders** through the practice of "forum shopping", which allows lawsuits to occur in jurisdictions perceived to be more favourable to plaintiffs.

> *National legislation must be strengthened to discourage frivolous legal actions... We need the early dismissal of strategic lawsuits against public participation and mechanisms to limit damages.*
>
> UN High Commissioner for Human Rights, April 2023

## SLAPPs are characterized by three elements:

**Disparities** in financial, political, or social power enables well-resourced plaintiffs such as State actors, businesses, and wealthy individuals to strain defendants' finances, livelihoods, and psychological health. Thus, SLAPPs are often used as punishment themselves, even without winning the case.

**Matters of public interest,** i.e. issues affecting the public, are often converted into private matters through legal proceedings that are in effect used to silence persons or entities vocal or active in such matters.

**Abusive legal tactics** including exaggerated claims, forum shopping, and prolonged or amended proceedings. SLAPPs are also exploitative because they require defendants to expend resources proving the case is devoid of merit rather than oblige claimants to prove their cases are not abusive.

Global Alliance for Human Rights

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## The impact of the use of SLAPPs

### On human rights

- Undermining freedom of opinion and expression
- Restricting access to information
- Weakening media freedom and pluralism and reducing public debate and participation
- Undermining the rule of law by turning courts into tools of repression

### On civic space

- Silencing of dissent and decreased public participation
- Lack of diverse, publicly accessible information regarding public interest matters
- Disproportionate representation of private economic interests in civic space discourse
- Decreased capacity to hold perpetrators accountable in matters of public interest
- Overall shrinking of civic space

### On victims

- Exorbitant legal costs
- Arbitrary detention and imprisonment
- Reputational damage
- Prolonged legal uncertainty
- Decline in mental health
- Diminished organizational resources
- Diversion of attention from matters of public interest
- Negative effect on victims' families, communities and organizations
- Chilling effect on future work

## RECOMMENDATIONS

- **Establish comprehensive legal protection frameworks for public participation** - abolish defamation laws and enact anti-SLAPPs legislation that empower courts to early dismiss abusive lawsuits and deter the use of multiple and coordinated cross-border legal action.
- **Enable rapid identification and dismissal of SLAPPs** - allow courts to dismiss abusive lawsuits at an early stage, and use burden-shifting rules requiring claimants to demonstrate that their cases are legitimate once defendants show that the claim concerns public participation.
- **Ensure support and compensation for SLAPP victims** - Permit recovery of legal costs through costs awards, bonds and fee-shifting mechanisms. Establish public or collective defence funds and allow authorized bodies to intervene or assist with defence costs. Provide compensation for financial, reputational and psychological harm.
- **Impose meaningful sanctions** - Authorize compensatory and punitive damages, administrative fines and other sanctions against those who misuse judicial processes.
- **Train and empower** judicial operators, including judges, to recognize and dismiss SLAPPs, including cases from abroad, at an early stage.
- **Collaborate across sectors**, including by empowering bar associations to counter SLAPPs & encouraging international and regional organisations to provide guidance for States.