



Un-SLAPPed

Towards a comprehensive reform of laws and practices curbing public participation and freedom of expression

Legal briefing

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Together with our partners, we develop cutting-edge research and legal and policy analysis to drive change worldwide, lead work on the frontlines of expression through our nine regional hubs across the globe, and propel change by sparking innovation in the global freedom of expression movement.

We do this by working on five key themes: promoting media independence, increasing access to information, protecting journalists, expanding civic space, and placing human rights at the heart of developing digital spaces.

✉ info@article19.org

🌐 www.article19.org

✂ [@article19org](https://twitter.com/article19org)

@ [@article19](https://www.instagram.com/article19)

🦋 [@article19.bsky.social](https://bsky.app/profile/article19.bsky.social)

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Executive summary

Strategic lawsuits against public participation (SLAPPs) pose a growing threat to freedom of expression, democratic accountability, and public participation worldwide. These actions, typically brought by powerful actors against journalists, civil society organisations, academics, and activists, misuse civil and criminal litigation to intimidate critics, impose financial and psychological burdens, and create a chilling effect on speech on matters of public interest.

The concept of SLAPPs is an emerging term that is not necessarily used in the same manner across jurisdictions. However, instead of advocating for the universality of the term, it is more useful to implement effective protections against abuses of law and procedure that curb public participation and exercise of the rights to freedom of expression, assembly, and other associated rights. Most importantly, it must be recognised that SLAPPs do not emerge in isolation. They are intertwined with other types of assault on free speech: physical attacks and intimidation of journalists and civil society; prosecution under criminal defamation, insult, and other types of broad 'speech offences'; and pervasive surveillance and online harassment, which often has a particularly adverse effect on minoritised communities and women. Gendered SLAPPs specifically target women journalists who cover gender-based violence, reproductive rights, and feminist issues – and perpetrators of gendered SLAPPs even weaponise laws intended to protect women against these journalists (as we have seen in Mexico and Paraguay).

International human rights standards, particularly under Article 19 of the International Covenant on Civil and Political Rights (ICCPR), Article 10 of the European Convention on Human Rights, Article 13 of the American Convention on Human Rights, and Article 9 of the African Charter on Human and Peoples' Rights, require states to protect freedom of expression not only against direct state interference but also against indirect restrictions arising from abusive private litigation. Specifically, there is an urgent need for heightened protection of public-interest speech, scrutiny of power imbalances between litigants, and implementation of safeguards against disproportionate sanctions and costs that deter participation in public debate.

Comparative analysis demonstrates significant divergence in national responses to SLAPPs. The EU, as well as certain US states and Canada, have adopted robust anti-SLAPP legislation providing early dismissal mechanisms, burden-shifting rules, and cost-shifting to deter abusive claims. The EU's 2024 Anti-SLAPP Directive marks a significant step towards the harmonisation of minimum safeguards across anti-SLAPP policies in Europe. Although it remains compulsory only for cross-border cases, it sets a regulatory blueprint that should also be extended to domestic cases. Globally, most jurisdictions lack tailored protections against SLAPPs and approach these actions through general procedural frameworks. The latter are often ill-equipped to effectively deal with the particularities of these cases.

ARTICLE 19 urges states to adopt comprehensive anti-SLAPP frameworks grounded in international human rights law. Key elements include early and efficient dismissal procedures, mandatory cost-shifting in favour of defendants, recognition of power imbalances, capacity-building of the justice system to effectively deal with the peculiarities of SLAPP claims, and access to remedies for those targeted by abusive litigation. Aligning domestic law with international standards is essential to ensuring that legal systems are not weaponised to silence public participation and dissent.

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Introduction

SLAPPs represent a growing menace to free speech and public accountability across the globe.

These lawsuits, brought by powerful individuals, corporations, or public officials, are not about justice but about intimidation. Their aim is to silence and exhaust those who speak out on issues of public concern. Journalists, activists, researchers, and whistleblowers increasingly face baseless legal attacks designed to gag their voices. These cases often involve defamation claims or other charges, such as insult or harassment, but their true purpose is to impose overwhelming legal costs, protract legal proceedings, and apply psychological pressure, thus chilling open debate and undermining the public's right to know.

SLAPPs are not confined to one region or legal system but are a global problem. The UK, EU, and US are widely recognised as SLAPP 'havens'. For example, the UK has become a preferred jurisdiction for SLAPP claimants due to its legal system's vulnerabilities, while cases reach across borders, affecting countries in Africa, Asia, and the Americas. In many instances, SLAPPs coincide with other threats such as surveillance and physical violence, creating an ecosystem of fear that discourages public participation altogether.

In ARTICLE 19's experience, SLAPPs are overwhelmingly brought by politicians, law enforcement, and corporations (particularly corporations involved in extractive industries, such as mining and logging, which often operate in Indigenous territories). These actors have significant financial and legal resources, enabling them to pursue costly and prolonged legal actions. Defending against them are journalists, human rights defenders, civil society, and activists striving to expose wrongdoing and demand accountability. However, due to constrained resources, many of these defenders face immense challenges accessing legal counsel, with the costs and risks of defence often insurmountable. Beyond the financial costs, SLAPPs are also a tool to shift the time, energy, and emotional resources from the defendants' demands for accountability to fighting the abusive litigation. This can often result in re-traumatisation for defendants.

Criminal defamation and related offences remain widespread globally, particularly in Latin America, where such laws are frequently used to prosecute journalists and activists. Despite international calls and regional court interventions advocating for the abolition of criminal defamation, many jurisdictions still maintain these laws or have only partially reformed them. Such legal frameworks, coupled with the absence of effective procedural safeguards, mean that defendants often endure lengthy and debilitating litigation processes. Judges unfamiliar with freedom of expression standards may grant injunctive reliefs, including gag orders, takedowns, and forced replies, that effectively censor public-interest speech before cases are resolved.

SLAPPs rarely operate in isolation. They are part of broader patterns of repression against the media and human rights defenders, intersecting with surveillance, intimidation, and even physical violence. In regions with histories of violence against the press, SLAPPs amplify the risk for journalists, particularly those investigating corruption or environmental abuses linked to powerful actors. Environmental activists and protesters face similar threats, where legal harassment compounds with threats and acts of physical violence, making SLAPP litigation a critical element of a wider assault on freedom of expression and other human rights.

An intersectional feminist lens reveals how these patterns uniquely impact women and lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) journalists and defenders. In many documented cases, lawsuits target women for their coverage of gender-based violence, sexual abuse, reproductive rights, or feminist movements: issues that directly challenge gendered hierarchies. When women report on or expose misconduct by male officials, religious or corporate leaders, they are often not only sued for defamation but also face online harassment and abuse designed to delegitimise them as professionals. Research by ARTICLE 19 and others show that this increases psychological toll on women and has a broader chilling effect.¹

In some countries, ARTICLE 19 also identified the misuse of legal protections originally introduced to safeguard women from violence and the repurposing of these laws to stifle public scrutiny. ARTICLE 19 Mexico and Central America, for instance, has documented politically influential women and state institutions weaponising 'digital violence' and 'gender-based harm' laws against women journalists who report on the abuse of power.² These distortions undermine both media freedom and the original intent of these laws. Reforms must therefore address how gender, power, and legal harassment intersect.

Despite the gravity of the threat that SLAPPs pose, only limited legal protections exist in many jurisdictions. The problem is compounded by other restrictive laws. In particular, criminal defamation laws remain active in many countries, exposing defenders of free speech to prosecution and even potential imprisonment. Civil defamation suits can drag on for years, imposing heavy financial and emotional burdens. Whether cases initiated under these laws fall under the concept of SLAPPs, the use and abuse of these laws fit into wider efforts to silence investigative journalism, human rights advocacy, and grassroots activism.

ARTICLE 19 believes that it is essential to understand SLAPPs not as isolated legal disputes but as a tactics of harassment embedded in broader assaults on democracy and human rights. Fighting back against SLAPPs requires comprehensive reforms, including decriminalising defamation, abolishing broad speech offences that are incompatible with international human rights standards (such as insult), introducing anti-SLAPP legislation to enable their swift dismissals, and offering effective protections to those targeted. Equally, governments, courts, and international institutions must recognise the interconnected threats facing journalists and defenders, including non-legal forms of repression.

In this briefing, ARTICLE 19 provides a legal review of the development and impact of SLAPPs from international and comparative perspectives. It summarises relevant international law, evolving state practices, and key judicial decisions, while emphasising the necessity of broad legal reform and protective measures. As SLAPPs are a symptom of a larger problem threatening freedom of expression globally, we hope this briefing will be useful in formulating calls upon governments, policymakers, and courts to adopt coordinated and decisive action.

We also highlight the urgent need to integrate these reforms with safeguards for the security of journalists, human rights defenders, and civil society actors, who too often face combined legal harassment and physical threats. The adoption of protections against SLAPPs must accompany the dismantling of the legal tools used to silence participation, and defend democratic space wherever such threats arise.

Only by recognising SLAPPs as deliberate attacks on freedom of expression, and by committing to thorough reform and practices, can governments around the world ensure that voices critical to justice and democracy are no longer stifled by abusive litigation.

The concept of SLAPPs

As SLAPPs are a description of a type of abuse of procedure, rather than a procedure in and of themselves, there is no uniform definition of what they may or may not entail. Additionally, the scope of what a SLAPP involves may depend on the specific legal system and procedures available.

ARTICLE 19 has referenced SLAPPs in its guidance on both defamation³ and protest.⁴

The Inter-American Court of Human Rights (the Inter-American Court) has provided seminal guidance for SLAPPs under international and regional standards, formally defining and discussing them in *Palacio Urrutia v. Ecuador* (2021). The Court provided:

The Court considers that the recurrence of public officials resorting to judicial channels to file lawsuits for crimes of slander or insult, not with the objective of obtaining a rectification but to silence the criticisms made regarding their actions in the public sphere, constitutes a threat to freedom of expression. This type of process, known as 'SLAPP' (strategic lawsuit against public participation), constitutes an abusive use of judicial mechanisms that must be regulated and controlled by the States, with the aim of allowing effective exercise of freedom of expression.⁵

A number of civil society organisations have confronted the issue of SLAPPs from a variety of sectors ranging from journalism to environmental defence, and other defences of human rights. For instance, the American Civil Liberties Union defines SLAPPs as 'a civil complaint or counterclaim filed against people or organisations who speak out on issues of public interest or concern'.⁶ Greenpeace defines SLAPPs as a 'lawsuit brought by a private individual (including those brought by public officials acting in a private capacity) with the intention of shutting down acts of public participation'.⁷

Greenpeace proposed a number of factors to consider:

- 'The remedies sought are unusually aggressive or disproportionate to the conduct targeted;
- The plaintiff engages in procedural manoeuvres intended to drag out the cost or drive up costs, such as pursuing appeals with little prospect of success;
- The plaintiff appears to be exploiting its economic advantage to put pressure on the defendant;
- The lawsuit targets individuals rather than just the organisation they work for;
- The arguments relied on are factually or legally baseless;
- The plaintiff uses the litigation process to intimidate and harass third-party critics (for example, through the discovery process);
- The lawsuit appears to be part of a wider public relations offensive or broader campaign to bully, harass, or intimidate the target;
- The plaintiff has a history of SLAPPs and/or legal intimidation (for example, threats designed to scare critics into silence).'⁸

In citing and taking into account the Greenpeace factors, the Business and Human Rights Resource Centre outlines the following hallmarks of SLAPPs:

- 'The legal action is brought or initiated by a private actor (a company, its owner or its employees).
- The legal action targets acts of public participation related to (but not limited to) human rights, social justice, and environmental protection, including public criticism or opposition campaigns. Public participation can incorporate a variety of activities ranging from peaceful protest to the publication of critical opinion, assuming that the latter is done in the public interest.
- The legal action is filed after the defenders and/or organisations express criticism regarding the complainant or plaintiff's economic activities; for having published a report, disseminated information on social media, participated in an event or an interview, launched a campaign, organised a demonstration and/or other peaceful activities.

- Defenders and/or organisations have been targeted with other forms of attacks related to their work defending human rights.⁹

In a similar vein, ARTICLE 19 believes that instead of focusing on the perfect definition, it is more practical to identify SLAPPs through 'indicators', or a subset of criteria that signal that a given lawsuit bears the key characteristics of a SLAPP. This approach has been taken on board by the EU, reflected in its Anti-SLAPP Directive,¹⁰ which requires implementation from all 27 EU Member States.

Under the Directive, the indicators of abusive litigation are defined as follows:

- 'The disproportionate, excessive or unreasonable nature of the claim or part thereof, including the excessive dispute value;
- The existence of multiple proceedings initiated by the claimant or associated parties in relation to similar matters;
- Intimidation, harassment, or threats on the part of the claimant or the claimant's representatives, before or during the proceedings, as well as similar conduct by the claimant in similar or concurrent cases;
- The use in bad faith of procedural tactics, such as delaying proceedings, fraudulent or abusive forum shopping, or the discontinuation of cases at a later stage of the proceedings in bad faith.'¹¹

While the EU Anti-SLAPP Directive is nominally mandatory only for cross-border cases, some EU Member States (such as Poland¹²), which are currently in the process of transposition of the Directive's rules into their national law, have vowed to extend its application to domestic SLAPPs as well.

An even more extensive list of indicators of SLAPPs is provided in the Council of Europe's Committee of Minister's recommendation against SLAPPs:

- 'The claimant tries to exploit an imbalance of power, such as their financial advantage or political or societal influence, to put pressure on the defendant;
- The arguments put forward by the claimant are partially or fully unfounded;
- The remedies requested by the claimant are disproportionate, excessive, or unreasonable;

- The claims amount to abuse of laws or procedures;
- The claimant engages in procedural and litigation tactics designed to drive up costs for the defendant, such as delaying proceedings, selecting a forum that is unfavourable to public participation or vexatious to the defendant, provoking an onerous workload and pursuing appeals with little or no prospect of success;
- The legal action deliberately targets individuals rather than the organisations responsible for the challenged action;
- The legal action is accompanied by a public relations offensive designed to bully, discredit or intimidate actors participating in public debate or aimed at diverting attention from the substantial issue at stake;
- The claimant or their representatives engage in legal intimidation, harassment or threats, or have a history of doing so;
- The claimant or associated parties engage in multiple and coordinated or cross-border legal actions on the basis of the same set of facts or in relation to similar matters;
- The claimant systematically refuses to engage with non-judicial mechanisms to resolve the claim.¹³

It must be noted that SLAPP indicators should not be treated as cumulative criteria to establish the fact of a SLAPP suit. They are disjunctive in nature, which reflects the diversity of cases that fall under the 'SLAPP' umbrella. Any of these indicators, or a combination thereof, in the proper context, can signal a SLAPP, which calls for measures against the abusive action.

Gendered SLAPPs

SLAPPs and misuse of legal process can reinforce broader patterns of gender-based intimidation against women in the media sector and those working on human rights. Women journalists and human rights defenders face distinctive forms of judicial harassment and SLAPPs linked to their work, their gender, and/or the subjects they cover. Abuse of legal process is of particular issue when journalists report on issues related to gender equality, sexual violence, or women's rights, which can provoke strong backlash from political actors and powerful institutions.

For instance, according to one study, 12 women reporters received defamation lawsuits, 'misinformation' charges, or morality violations for their coverage of gender-related issues between 2020 and 2024.¹⁴ The study identified this trend in France, Greece, Lebanon, Pakistan, Paraguay, Peru, Türkiye (where Ayşe Arcanui faced multiple suits after reporting on women's marches), and the US. These lawsuits frequently carry criminal charges, including prison sentences, as 80% of countries worldwide maintain insult and criminal defamation statutes.¹⁵

Perpetrators of sexual violence are also increasingly filing lawsuits after survivors and advocates publicly expose said violence.¹⁶ Reporting and prosecuting sexual violence is already extremely difficult, and the abuse of legal procedure to target survivors who speak out only adds to existing roadblocks to justice.¹⁷ This compounds with other aspects of the legal system that already silence survivors, including private prosecutors exploiting vague libel laws and courts reinforcing sexist stereotypes by portraying survivors, advocates, or the journalists who cover their cases as emotionally unstable or motivated by personal grudges.¹⁸

ARTICLE 19's work in Mexico and Central America confirms this trend. Nearly half (25 of 51) of all recorded cases of judicial harassment in Mexico in 2025 involved the weaponisation of legislation intended to end 'political violence on the basis of gender' (VPEG, by its Spanish acronym) against reporters who exposed the misconduct of powerful women, some of whom were state officials.¹⁹ Digital violence clauses became the preferred tool for powerful actors to demand content takedowns and impose gag orders. However, the law has been abused to silence women journalists – who it was designed to protect – while also preventing the dissemination of information of public interest.

Similarly, in Paraguay, abuse by powerful figures of Law 5777 – adopted in 2016 to protect women from violence – has generated at least 6 retaliatory lawsuits against journalists.²⁰ Mabel Portillo received a judicial gag order after investigating official corruption, and news outlet *Resumen de Noticias* faced censorship for similar reporting.²¹ Analysis by digital rights organisation TEDIC shows how public officials converted protective legislation into a tool to shield against accountability journalism.

Further, women journalists from groups at risk of discrimination (such as Indigenous women) as well as journalists working in small or under-resourced media outlets) often face greater obstacles in responding to legal threats. Limited financial resources, lack of institutional support, and restricted access to legal expertise can make it particularly difficult for these journalists to defend themselves against prolonged litigation. As a result, the burden imposed by SLAPPs may disproportionately affect journalists whose voices are already under-represented in public debate.²²

Importantly, the legal repercussions women journalists and activists face are also happening in the context of gender-based discrimination, online harassment and abuse, and various other forms of attacks that target their credibility and professional legitimacy. As such (and as discussed later), recognising the gendered dimensions of SLAPPs is essential when designing legal and policy responses and protections against them.

International standards on SLAPPs

General freedom of expression standards relevant for public participation and protection of reputations

The right to freedom of expression is protected by Article 19 of the Universal Declaration of Human Rights²³ and given legal force through Article 19 of the International Covenant on Civil and Political Rights (ICCPR).²⁴ At the regional levels, it is also enshrined in similar terms in the European Convention for Human Rights (Article 10),²⁵ the American Convention on Human Rights (Article 13),²⁶ and the African Charter on Human and Peoples' Rights (Article 9).²⁷

The scope of the right to freedom of expression is broad. General Comment No. 34 of the UN Human Rights Committee, the treaty body of independent experts monitoring state compliance with the ICCPR, explicitly recognises that Article 19 protects the freedom to seek, receive, or impart information or ideas of any kind, regardless of frontiers, and the means of their dissemination, including all forms of electronic and internet-based modes of expression.²⁸

The Human Rights Committee also recognises that the right to freedom of expression includes, among other things, political discourse, commentary on one's own and on public affairs, journalism, and expression that may be regarded as deeply offensive.²⁹ As stressed repeatedly by human rights bodies, the protection of the right to freedom of expression is applicable not 'only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population'.³⁰

Importantly, international and regional human rights standards highlight the role that journalists and media play in a democratic society and the functions they serve for the exercise of freedom of expression and information.

For instance, the Human Rights Committee states that:

A free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other [rights guaranteed by the ICCPR]. It constitutes one of the cornerstones of a democratic society ...

This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. The public also has a corresponding right to receive media output.³¹

Under contemporary international and regional standards, journalism is understood as a civic function, which can be performed by a wide range of actors, including but not limited to, freelancers, bloggers, human rights defenders, activists, and citizen journalists. Under international freedom of expression standards, journalism is considered a function, rather than a regulated profession.³²

Beyond journalism, the Human Rights Committee recognises that the ICCPR places particularly high value upon uninhibited expression whose content involves political discourse, particularly in circumstances of public debate concerning public figures in the political domain and public institutions.³³

Limitations on the right to freedom of expression

The right to freedom of expression is not absolute but may be restricted only under permissible grounds and in compliance with certain conditions:

- First, the restrictions must be **provided by law**. This means that a restriction must have a basis in law, which is publicly available and accessible, and formulated with sufficient precision to enable citizens to regulate their conduct accordingly.³⁴
- Second, the interferences must pursue a **legitimate aim**. They may only be imposed for one of the grounds set out in Article 19(3)(a) or (b) of the ICCPR. This includes the respect of the rights or reputations of others.
- Third, they must conform to the strict tests of **necessity and proportionality**. The principle of proportionality requires that any restriction must be the least intrusive measure to achieve the intended legitimate objective. Further, the specific interference in any particular instance must be directly and immediately related and proportionate to the individualised threat on which they are predicated.³⁵ The 'chilling' effect that disproportionate sanctions, or even the threat of such sanctions, may have upon the free flow of information and ideas must be taken into account when assessing the legitimacy of restrictions.

Therefore, international human rights law recognises that free expression may be limited to protect individual reputation. However, defamation laws, like all restrictions, must be proportionate to the harm done and not go beyond what is necessary in the particular circumstances. The relevant measures cannot be regarded as necessary where a less restrictive means could be employed to achieve the same end. In this respect, the nature of the sanction and potential 'chilling effect' are key elements in the balancing exercise for validating a proportionate response to the harm done.

Protection against SLAPPs in international human rights law

International human rights bodies increasingly recognise the urgent need to protect freedom of expression and public participation from abusive litigation practices. They also emphasise that these lawsuits constitute a misuse of judicial processes aimed at silencing criticism and deterring public debate. For instance:

- In General Comment No. 24, the UN Committee on Economic, Social and Cultural Rights established that 'actions [instituted] by corporations to discourage individuals or groups from exercising remedies, for instance by alleging damage to a corporation's reputation, should not be abused to create a chilling effect on the legitimate exercise of such remedies'.³⁶
- In both Resolution 39/6 (2018)³⁷ and Resolution 45/18 (2020),³⁸ the Human Rights Council raised alarm over the use of defamation laws and similar legislation, as well as disproportionate penalties, in ways that restrict freedom of expression. The resolutions specifically named SLAPPs, noting the problem of 'business entities and individuals using strategic lawsuits against public participation to exercise pressure on journalists and stop them from critical and/or investigative reporting'.³⁹ Most recently, Resolution 59/10 (2025) noted that SLAPPs 'intimidate [and] exhaust the resources and morale of civil society, human rights defenders and journalists and other media workers'.⁴⁰
- The UN Special Rapporteur on the right to freedom of opinion and expression noted the rise of SLAPPs targeting journalists and news outlets, in circumstances that suggest the legal action has been brought as retaliation or intimidation. The Rapporteur noted: 'by masquerading as ordinary lawsuits such actions convert matters of public interest into private disputes' and called on states 'to address this growing abuse of the judicial system'.⁴¹

- The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the UN Special Rapporteur on extrajudicial, summary, or arbitrary execution have raised concerns over the use of SLAPPs against assembly organisers. This concerned, in particular, instances where business entities seek injunctions and civil remedies against protesters on the basis of trespass or defamation laws. The mandate holders established that states have the obligation to ensure due process and to protect assembly organisers from civil actions that lack merit.⁴²
- Most recently, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on freedom of expression of the Inter-American Commission on Human Rights (IACHR), the Commissioner Rapporteur for Human Rights Defenders of the IACHR, and the Special Rapporteur on Human Rights Defenders and focal point for reprisals in Africa of the African Commission on Human and Peoples' Rights (ACHPR) issued a joint declaration on protecting the rights to freedom of peaceful assembly and of association from criminalisation amid intensified existential threats. In this declaration, the Rapporteurs highlighted several aspects of SLAPPs:
 - their devastating effect on fundamental freedoms and public participation, including in the context of environmental activism;
 - the need to create national legal protections from SLAPP lawsuits initiated by public and private entities; and
 - the rise of SLAPPs as an instrument of transnational repression, used to target human rights defenders, activists, and civil society in exile.⁴³
- The UN General Assembly's Resolution 74/157 on the safety of journalists and the issue of impunity, adopted in December 2019 with significant support, urges states to ensure that defamation laws are not abused against journalists' work and, 'where necessary, to revise and repeal such laws, in compliance with States' obligations under international human rights law'.⁴⁴ Later, in 2023, the UN General Assembly took this further

by recommending in its Resolution 78/215 that states 'take appropriate measures to protect journalists and media workers from strategic lawsuits against public participation, including by adopting laws and policies that prevent and/or alleviate such cases and provide support to victims'.⁴⁵

- In a similar vein, the UN Working Group on Business and Human Rights recommended states enact anti-SLAPP legislation to ensure that human rights defenders are not subjected to civil liability for their activities.⁴⁶

International freedom of expression standards establish that the positive obligation of states to protect the right to freedom of expression from undue interferences entails the creation of an enabling legal environment for journalists and the media to operate freely and without undue interferences; to proactively take all necessary measures – in law, procedure, and practice, to eliminate the obstacles and interferences to exercising the right to freedom of expression in relation to matters of public interest; and to adopt legislation or any special measures to protect journalism from further interferences undermining their social function.⁴⁷

Hence, states should address the chilling effect of abusive litigation and provide effective remedies against abusive claimants that resort to the judicial system to intimidate or silence journalists and the media in retaliation for their work on matters of public concern.⁴⁸

Comparative standards on SLAPPs in regional human rights bodies

Inter-American human rights system

As noted earlier (in the section about the concept of SLAPPs), the **Inter-American Court** formally referenced and defined SLAPPs in *Palacio Urrutia et al. v. Ecuador*, a criminal defamation lawsuit brought by then-President Rafael Correa, which led to a criminal conviction and a large civil penalty.⁴⁹

The Court set forth its reasoning in a pivotal moment of recognising the broader regional trend.⁵⁰ In addition to overturning the preceding judgment and penalties on Mr Palacio Urrutia, the Court adjudicated on general measures, including requiring Ecuador to take legislative action to realise its 'obligation to prevent public officials from resorting to judicial channels to file lawsuits for slander and insult with the aim of silencing criticism of their actions in the public sphere'.⁵¹

The concurring opinion of Judges Eduardo Ferrer Mac-Gregor Poisot and Ricardo Pérez Manrique expanded upon the broader context of SLAPPs, noting how 'it is important to highlight and understand [SLAPPs] in an interrelated manner', with special consideration that states have an obligation under international law to regulate and control the use of SLAPPs.⁵² In discussing the particular impacts of SLAPPs and potential anti-SLAPP remedies, the concurring judges set forth:

*The 'strategy' of a SLAPP lawsuit is to burden the defendant with litigation costs so burdensome that they desist, cease or retract their speech, or face the threat of jail time or monetary damages so high that produce an effect of self-censorship and retraction of a statement. Given this, in some latitudes the creation of 'anti-SLAPP' laws has been promoted. These laws seek to deter SLAPP lawsuits by increasing the legal protections available to defendants. These laws allow the defendants a remedy to dismiss lawsuits that lack legal basis, or that seek to indirectly censor those who issue statements that make a certain person or sector uncomfortable (such as a government official or a business group), especially when these issues include criticism of the government and are matters of public interest.*⁵³

The judges made clear that prohibiting criminal laws is 'only the first element' of protecting freedom of expression, as 'disproportionate' civil sanctions may be 'equally or more inhibitory of speech'.⁵⁴ In Mr Palacio Urrutia's case, the original sentence imposed on him and the directors of the *El Universo* newspaper was USD 30 million, which was in effect incapacitating the entire news outlet.

The case of *Urrutia v. Ecuador* represents the culmination of the line of the Inter-American Court precedents addressing use of both criminal and civil suits against the press, particularly by public officials. Numerous decisions of the Court have ruled that criminal defamation laws are incompatible with international standards.⁵⁵

In the case of *José Alvear Restrepo Lawyers' Collective (CAJAR) v. Colombia*, the Inter-American Court vividly demonstrated the compounding effect of various measures that curb public participation and go beyond defamation lawsuits. In that case, a human rights group was subjected to a decades-long array of repressive actions, including surveillance, intimidation, harassment, defamation, threats, and stigmatising disqualifications against its members. Some of these were committed by private actors with links to the state. The Inter-American Court found Colombia to be in violation of a number of human rights, including the rights to privacy and freedom of expression, for failing to protect the human rights group. The Court noted that the government must adopt the necessary measures to guarantee their effective participation in a democratic society.⁵⁶

In 2023, ARTICLE 19 and several Latin American press freedom and civil society organisations participated in the first public hearing before the IACHR on the threat posed by SLAPPs. During the hearing, journalists and human rights defenders shared concrete examples and trends in SLAPPs against media, activists, and critics in the region. The groups called on the Commission to formally recognise SLAPPs as a serious threat and develop comprehensive standards and protections against such abusive lawsuits.⁵⁷

African human rights system

The approach of the African human rights system is different to the ones developed in Europe and the Americas. SLAPPs are not a recognised legal category. Instead, the terms 'abuse of process' and 'vexatious litigation' are used, and the negative impact of abusive litigation on public participation is examined through the lens of general defamation principles. This difference in approach highlights the lack of global uniformity in the terminology surrounding SLAPPs. At the same time, the use of different legal terms does not mean they do not overlap, in substance, with the idea that a judicial system can be abused to curb participatory rights and the public's right to be informed.

Although the African Court on Human and Peoples' Rights and the ACHPR do not seem to have adjudicated a precedent that would formally mention 'SLAPP' as a distinct legal category, a recent case *Agnes Uwimana-Nkusi & Saidati Mukakibibi v. Rwanda* of the ACHPR articulated key principles on defamation laws that intersect with the emerging SLAPP standards. In that case, the Commission vehemently criticised criminal defamation and insult laws as 'a serious interference with freedom of expression, impeding the public's right to access information, and the role of the media as a watchdog, preventing journalists ... from practicing their profession in good faith, without fear or censorship'.⁵⁸

From a comparative perspective, South Africa's Constitutional Court established a key judicial precedent in *Mineral Sands Resources Proprietary Limited and Another v. Christine Reddell and Others*.

In that case, where a defamation suit was brought by the extractive businesses against environmental activists, the Constitutional Court gave extensive interpretation of the placement of vexatious defamation litigation in the framework of the legal doctrine of 'abuse of process'. The judgment noted, in particular, that a defence to a defamation lawsuit arises where the action 'amounts to the use of court process to achieve an improper end', such as to silence the defendant or to burden the defendant in a manner that causes grave harm to the defendant's right of expression and the public interest that is being served by that expression, with the likelihood that pursuing the action will have that negative effect.⁵⁹

European human rights system

In recent years, Europe has seen significant developments in the area of anti-SLAPP policy. As noted earlier, in 2024, the EU adopted the Anti-SLAPP Directive, which requires Member States to introduce safeguards against abusive cross-border civil proceedings intended to intimidate or silence public participation.⁶⁰ These safeguards, examined in more detail later, include early dismissal mechanisms for manifestly unfounded claims, protective cost measures, and the possibility of awarding penalties or damages against abusive litigants.

For its part, the Committee of Ministers of the Council of Europe issued a recommendation on SLAPPs, encouraging Member States to reform their national laws, introduce procedural filters, and strengthen legal aid and support for those targeted.⁶¹

The European Court of Human Rights has not yet developed specific case law on SLAPPs as such, but it has acknowledged in several cases the risks of abusive proceedings that curb public participation.

In *Steel and Morris v. UK*, which arose from a libel case initiated by McDonald's against Greenpeace activists who had disseminated a leaflet criticising lack of animal welfare practices, health concerns, and labour law issues, the Court underlined 'the inequality of arms' between the corporate plaintiff and the defendants. The imbalance of power, coupled with a protracted juridical process, in which no legal aid was provided to the defendants, was taken into account in the application of the proportionality test and the balancing exercise between the corporate reputation and the right to freedom of expression. The Court found a violation of the applicants' right to freedom of expression.⁶²

Later, in *OOO Memo v. Russia*, the European Court commented on the 'growing awareness of the risks that court proceedings instituted with a view to limiting public participation bring for democracy' and 'the power imbalance' between the parties in the case.⁶³

Defences and protection against SLAPPs

The aim of anti-SLAPP legislation or provisions is to mitigate the harmful effect of SLAPPs on public-interest expression. For instance, the Ontario anti-SLAPP regime aims to circumscribe proceedings that adversely affect expression made in relation to matters of public interest in order to protect that expression and safeguard the fundamental value that is public participation in democracy.⁶⁴

Special laws, statutes, or civil law procedural rules include mechanisms for early procedural review under special motions to dismiss or strike any civil action in which a plaintiff brings a claim that is based on the defendant's right to freedom of expression. In some cases, it is considered a pretrial motion, under which the question before the judge is whether the statement or publication pertains to a public-interest matter rather than an assessment of the merits or characterisation of the expression. These regimes are not limited to defamation and reputational claims.

Early dismissals

Most modern jurisdictions contain general rules of procedure that allow for dealing with the abuse of process. Within the general framework, a judge can find that a defamation lawsuit (or another case that can be characterised as a SLAPP) is clearly unsubstantiated and constitutes an abuse of procedure. However, these rules are often ill-adjusted to the scale and peculiarities of SLAPPs. The protraction of court proceedings benefits the abusive party and entangles the SLAPP victim in a costly and complicated process, producing a chilling effect on free expression and public participation.

It is, thus, more effective to develop tailored rules on procedural expediency and early dismissal of SLAPP cases.

Tailored defences against SLAPPs vary greatly between jurisdictions, but the most viable option is a specific procedural mechanism to strike out a SLAPP claim early on in the proceedings, preventing protracted litigation, which negatively affects the defendants' rights and public participation more broadly.

It is important that an early dismissal option is practically enforceable. Procedural rules must provide for the expedited hearing of the motion to dismiss. To this effect, a specific deadline can be prescribed in the procedural statute.

An early dismissal mechanism, coupled with an effective case management standard, is enshrined, for instance, both in the EU Anti-SLAPP Directive and the Council of Europe Recommendation on SLAPPs referenced earlier.

A robust system of anti-SLAPP protections has been put in place in California. The state law allows the defendant to file a motion to strike the complaint bearing characteristics of a SLAPP, which the court is required to hear within 30 days, subject to limited exceptions.⁶⁵

In contrast, jurisdictions whose civil and criminal legislation contains a general prohibition of frivolous claims that curb public participation, but lacks specific procedural rules on dismissal of SLAPPs, struggle with affording effective protection to those affected by SLAPPs.⁶⁶

Burden of proof

The issue of the burden of proof is a key antidote to SLAPPs.

The mechanism that allows the defendant to file a motion to dismiss or strike out the complaint puts the burden of proof on the defendant to convince the court that the speech in question is directly related to or arising from expressions and matters of public concern. If the defendant meets the threshold required to satisfy the judge, the burden of proof is put on to the plaintiff to demonstrate whether there exists a degree of probability that the claim will prevail.⁶⁷

Plaintiffs may also be required to prove the following in order to proceed with the examination of the case:

- The underlying procedure has a substantial merit;
- The defendant has no valid defence; and
- The alleged harm is sufficiently serious that the public interest in permitting the proceeding to continue outweighs the public interest in protecting the expression in question.⁶⁸

In other words, if the claimant fails to show that it is more likely than not that the claim would succeed at trial, the court strikes out the case early⁶⁹ to prevent the litigation to drag on, which would benefit the abusive claimant and have an adverse effect on the defendant's freedom of expression and public participation.

Remedies and award of costs

Best SLAPP practices allow defendants to be compensated for the attorney fees and other costs in case the court determines that the motion to dismiss prevails over the plaintiff claims. Most practically, the award of compensation should take place within the same procedure, rather than through starting a separate claim. Furthermore, legal acknowledgement of SLAPP victim status is central to the establishment of mechanisms for pecuniary and non-pecuniary redress.⁷⁰

For instance, in the EU system, the award of costs does not require a separate lawsuit. The Anti-SLAPP Directive prescribes that:

*A claimant who has brought abusive court proceedings against public participation can be ordered to bear all types of costs of the proceedings that can be awarded under national law, including the full costs of legal representation incurred by the defendant unless such costs are excessive.*⁷¹

Similarly, the Uniform Public Expression Protection Act in the US that seeks to harmonise anti-SLAPP protections across state jurisdictions prescribes:

*The court shall award court costs, reasonable attorney's fees, and reasonable litigation expenses related to the motion: (1) to the moving party if the moving party prevails on the motion; or (2) to the responding party if the responding party prevails on the motion and the court finds that the motion was frivolous or filed solely with intent to delay the proceeding.*⁷²

Under the EU Anti-SLAPP Directive, EU Member States are also required to create rules on 'effective, proportionate and dissuasive penalties or other equally effective appropriate measures, including the payment of compensation for damage or the publication of the court decision', applicable to the plaintiffs in SLAPP cases.⁷³

Instead of awarding costs within the same judicial proceeding, some jurisdictions require a separate motion. It is sometimes described under the umbrella term of 'a SLAPP-back lawsuit'.⁷⁴ This is a less preferred mechanism as it shifts the procedural burden onto the victim of an abusive claim. In the US, there has been a trend of individual states revising their anti-SLAPP legislation to provide for a mandatory imposition of costs within the original procedure.⁷⁵

Capacity-building

Due to the specificity of SLAPPs as an abuse of law and procedure, it is vital that judges, prosecutors, and other relevant actors in the justice system are well-versed in the concept. Effective protection against SLAPPs requires swift procedural decisions by informed judges. This is best achieved through targeted training and education programmes on SLAPPs for judges, including enhancing their ability to recognise SLAPP indicators in a lawsuit.

In a key precedent from the Americas, the Inter-American Court in *Palacio Urrutia v. Ecuador*, ordered the respondent government to implement a training plan for public officials, including prosecutors and judges, focused on ensuring that public officials are prevented from resorting to judicial channels to file lawsuits for slander and insult with the aim of silencing criticism of their actions in the public sphere.⁷⁶

The Council of Europe's Recommendation against SLAPPs urged Member States to 'develop tailor-made training for the judiciary, legal professionals and relevant public authorities, taking into account the established case law [of the European Court of Human Rights], the existing procedural tools, the substantive standards and the core values and deontological rules of the profession'.⁷⁷

Intersectional feminist responses to SLAPPs

Finally (and as highlighted earlier), efforts to combat SLAPPs must also consider how these cases relate to broader forms of gender-based violence and discrimination faced by women journalists.

Measures to address SLAPPs should therefore include safeguards to prevent the misuse of laws intended to address gender-based violence, while ensuring that such protections continue to serve their intended purpose.

Such measures could include, for example, mandating gender-disaggregated data collection in all SLAPPs databases. States should also introduce training for judges and law enforcement to recognise and reject stereotypes that discredit defendants on the basis of their gender. Finally, legal defence funds for victims of SLAPPs should include specific funds for women and LGBTQI+ journalists and defenders.

Women and LGBTQI+ journalists and activists play a key role in reporting on gender inequality, exposing abuses of power, and amplifying the experiences of groups at risk of these and other types of abuses. When legal systems are used to intimidate or silence them, the consequences extend beyond individual cases; they also restrict public debate on issues that are central to human rights and democratic governance. Ensuring that anti-SLAPP measures address these gendered dynamics is therefore an important component of protecting both media freedom and the safety of journalists and human rights defenders.

Recommendations

ARTICLE 19 notes that the earlier mentioned regimes against SLAPPs are not bulletproof and are always prone to abuse as civil proceedings tend to be lengthy, extremely technical, and costly in practice. However, they are playing a role to mitigate the negative impacts of vexatious litigation against media and journalists and to protect the exercise of journalistic freedom of expression from indirect restrictions by third parties. They are relevant because they are in line with the standards of fair trial, due process, effective remedy, and protection of the right to freedom of expression under international human rights law.

To summarise, ARTICLE 19 recommends that the following minimal protections against SLAPPs should be created in national law and policy:

- Clear and effective early dismissal mechanisms should be created in national procedural law for SLAPPs. This may include a list of SLAPP indicators.
- Burden of proof in relation to the SLAPP nature of the lawsuit must rest on the plaintiff. The plaintiff must be tasked with demonstrating that their claim has merit.
- In all situations, expediency of proceedings and effective case management should be ensured for lawsuits that touch upon public participation.
- Victims of SLAPPs should have access to adequate and effective remedies, including the right to compensation.
- Resources should be invested in building the capacity of the justice system and individual judges to be well-equipped and properly trained on the specificity of SLAPPs.
- To address the gendered dimensions of SLAPPs, the framework should include:
 - Legislative measures explicitly exempting public-interest reporting on gender-based violence, reproductive rights, corruption by women in positions of power, and feminist issues from the scope of laws aimed at protecting women;

- Specific funds for victims of gendered SLAPPs to respond to discrimination against and inequality of women and other groups at risk of discrimination;
- Data collection, including requiring all SLAPP filings to record the defendant's sex and gender, subject matter, legal basis used, and judicial outcomes, with annual public reports analysing targeting patterns against women journalists to drive accountability; and
- Specific support measures for gendered SLAPPs (such as psychosocial counselling addressing the intersection of legal harassment and online and offline gender-based violence) and for cross-border feminist networks to share strategies and evidence to ensure isolated women do not face SLAPPs alone.

Underpinning our recommendations against SLAPPs is the obligation of states and the need to prevent the chilling effect of litigation from potential abusive claimants.

To mitigate the impact of abusive litigation in the context of reputational claims, defendants should have an effective remedy against plaintiffs bringing clearly unsubstantiated cases with a view of exerting a chilling effect on debates of public concern. Either by law or procedural rules, the court should have the power, at the requests of the defendant or on their own motion, to dismiss defamation claims that target a contribution to a debate of public concern and are frivolous, clearly unsubstantiated, or otherwise clearly lacking any chance of success.

In the context of abusive claimants against protesters, ARTICLE 19 approaches the issue from the state duties regarding liability and sanctions against protesters. This means that states must restrict the possibility of civil law remedies being used to silence protesters and to obstruct the work of human rights defenders in protests (including SLAPPs). States should adopt legislation that considers SLAPPs as an abuse of the judicial process which aims to restrict legitimate exercise of the right to protest.

In relation to the use of injunctions, ARTICLE 19's position stems from the need to comply with the principles of due process, necessity, and proportionality.⁷⁸

This approach reflects the key principles of anti-SLAPP statutes/laws that have been adopted in some countries.⁷⁹

Endnotes

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- 3 ARTICLE 19, [Defining defamation: Principles on freedom of expression and protection of reputation](#), 2017.
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- 6 American Civil Liberties Union of Ohio, [SLAPPed: A tool for activists. Part 1: What is a SLAPP suit?](#)
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- 22 See, for example, European Centre for Press & Media Freedom, [Gender-based violence, a growing weapon against women journalists](#), 2025.
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- 24 UN General Assembly, [International Covenant on Civil and Political Rights](#), United Nations, Treaty Series, vol. 999, p. 171, 16 December 1966.
- 25 Council of Europe, [European Convention on Human Rights, as amended by Protocols Nos. 11, 14 and 15](#), ETS No. 005, 4 November 1950.
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- 27 Organization of African Unity, [African Charter on Human and Peoples' Rights \('Banjul Charter'\)](#), CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), 27 June 1981.

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- 31 A/HRC/20/L.13, para 13.
- 32 See, for example, Recommendation No. R (2000)7 of the Committee of Ministers to Member States on the right of journalists not to disclose their sources of information, adopted 8 March 2000; Inter-American Court of Human Rights, advisory opinion OC-5/85 of 13 November 1985 on Compulsory Membership in An Association Prescribed by Law for The Practice of Journalist (Costa Rica).
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- 51 *Urrutia v. Ecuador*, para 182.
- 52 *Urrutia v. Ecuador*, merits, concurring opinion, para 16: 'The SLAPP lawsuits directed against those who speak publicly, constitute a threat to freedom of expression, and therefore constitute an abusive use of judicial mechanisms that must be regulated and controlled by the States.'
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ARTICLE 19