



SLAPPed but not silenced

DEFENDING
HUMAN RIGHTS
IN THE FACE
OF LEGAL RISKS

JUNE 2021

AGRARIAN REFORM FOR
FOOD SOVEREIGNTY
CAMPAIGN

Contents

Foreword	4
Executive summary	5
SLAPP key findings	7
Introduction	8
Context	9
Most dangerous countries and regions	11
Common proceedings and legal charges	12
Individual human rights defenders targeted with SLAPPs	14
Worst offending sectors	15
Worst SLAPPers	16
The role of law firms	20
The impact of COVID-19 on SLAPP cases	21
Existing legal protections	22
Pushing back against the use of SLAPPs	24
Communities fighting back	24
SLAPP coalitions	25
Research on SLAPPs	25
Conclusion	26
Recommended actions	27
Annex	29
Endnotes	30





Michelle Bachelet,
UN High Commissioner
for Human Rights

“*When human rights defenders are afraid to question reports about wrongdoing and deficits they observe, it affects the entire society. Strategic lawsuits against public participation (SLAPPs) have exactly that effect: they can impose sometimes significant fines and criminal sanctions, and thus intimidate human rights defenders and stop them from shedding light on critical issues. It is our shared responsibility to prevent SLAPPs from undermining everyone’s right to know.*”

Foreword



Mary Lawlor, UN Special Rapporteur on the situation of human rights defenders

Human rights defenders, individually and collectively as part of their organizations, movements and communities, play an essential role in sustainable and rights-respecting economic development. They are at the forefront of protecting our environment, the health and safety of their communities, and human rights. Human rights defenders are not anti-development, but they are often painted as such and face a range of attacks for the mere reason of speaking up against business-related human rights harms.

Business actors are often involved with these attacks, which include killings, beatings, threats, judicial harassment, and other forms of violence. The criminalization of defenders and judicial harassment - a range of legal tactics used by states and business actors to violate the rights of defenders - is a growing problem worldwide. The Business & Human Rights Resource Centre has found that more than 40% of the attacks it has tracked over the past six years against defenders focused on business-related activities have constituted judicial harassment, including arbitrary detention in inhumane or degrading conditions and strategic lawsuits against public participation (SLAPPs).

It is extremely concerning how SLAPPs have become a staple in the manipulation of the judicial system by business actors to stop legitimate human rights work, restrict civic space, and repress dissenting voices. SLAPPs drain the resources of defenders, take time away from human rights defense, and can intimidate others from engaging in legitimate human rights work.

I welcome the Business and Human Rights Resource Centre's report on SLAPPs which sheds light on how these vexatious lawsuits have become a global trend, resulting in severe impacts on defenders and their communities. This abuse of the judicial system by business actors to slow or stop the work of people critical of business actions is unacceptable.

States have a duty to protect defenders against SLAPPs and should pass anti-SLAPP legislation in order to facilitate a safe and enabling environment where criticism is part of a healthy debate. Business actors also have the responsibility to commit to a clear public policy of a zero-tolerance to attacks on defenders and refrain from using this tactic to stop public participation. Space for defenders to carry out their work must be free from any interference or attack.

Executive summary

Every day across the globe, people bravely speak out against injustice, often at great personal risk. Human rights defenders (defenders) are at the forefront of peacefully promoting and protecting our human rights, natural resources, and shared planet, as well as playing a vital role in calling out the harm created by irresponsible business practices. Protecting these defenders' freedom of expression and association is vital to our democracies, transparency in markets, and protection of workers and communities.

In conducting this crucial and courageous work, defenders focused on business-related activities often have to confront powerful vested interests which seek to silence them. Strategic lawsuits against public participation (SLAPPs) are one tactic used by unscrupulous business actors to stop people raising concerns about their practices. SLAPPs can take the form of criminal or civil lawsuits brought to intimidate, bankrupt and silence critics. They are an abuse of the legal system by powerful actors. The tactic can intimidate defenders and drain the resources of community members, environmental advocates, and journalists who speak out in support of human rights and the environment. The impact can have a broad chilling effect, deterring others from speaking out against abuse.

In this first-ever analysis of lawsuits which bear the hallmarks of SLAPPs brought or initiated by business actors globally, the Business & Human Rights Resource Centre identified 355 cases filed since 2015. This figure is likely to be the tip of the iceberg, recognizing the challenges of identifying SLAPPs and directly linking them to the companies involved. These cases were brought or initiated by companies and businesspeople in several sectors, with most associated with mining, agribusiness, logging, and palm oil industries. While information about the amount of damages sought by those filing SLAPPs was only available through a review of public information in 82 of these cases, it totaled more than US\$1.5 billion.¹ Moreover, SLAPPs are, in part, made possible by law firms and lawyers agreeing to represent companies. We identified 19 law firms and lawyers involved in these cases that bear the hallmarks of SLAPPs.



SLAPPs are used in every region of the world to intimidate people into silence. The highest numbers occurred in Latin America (39%) and Asia (25%), but no region is exempt. Nearly two-thirds (63%) of the cases included in this research involved criminal charges, primarily libel and other defamation-related charges. Companies also used charges specific to the jurisdictions in which they filed, such as computer crime laws, anti-boycott laws, racketeering and conspiracy. Our research also identifies some repeat offenders involved in several cases categorized as SLAPPs in this research, such as Thammakaset (Thailand), Inversiones Los Pinares (Honduras), MMG Limited Las Bambas (Peru), and Lydian Armenia (Armenia).

In contrast, a [cluster of progressive companies](#) have adopted a zero-tolerance approach to violence against defenders and understand defenders' critiques as important early warnings of abuse or risks in their operations and supply chains. Adidas, for instance, has a human rights defenders' policy which states that both the company and its business partners should not "inhibit the lawful actions of a human rights defender or restrict their freedom of expression, freedom of association, or right to peaceful assembly".

A few governments have also taken steps to stop the use of SLAPPs by enacting anti-SLAPP legislation, including the United States, Canada, Australia, the Philippines, Indonesia, and Thailand. Such legislation is a vital tool for protecting defenders from SLAPPs and should be enacted by all governments as part of their duty to protect human rights. Under the United Nations Guiding Principles on Business and Human Rights (UNGPs), companies (including law firms) and investors also have a responsibility to avoid infringing on the rights of others and to identify, prevent and mitigate human rights risks to defenders. Each of these actors has a critical responsibility in stopping the use of SLAPPs to silence and intimidate.

In addition, with the rise of due diligence legislations in countries where some of the offending companies and law firms are domiciled, the companies using SLAPPs, as well as their investors, will find themselves increasingly facing substantial legal risk.

Top recommendations

- ➔ **Investors and companies** should commit to a clear public policy of non-retaliation against defenders and organizations that raise concerns about their practices, and adopt a zero-tolerance approach on reprisals and attacks on defenders in their operations, value chains, and business relationships. As part of this, investors should review potential investees for their history of SLAPPs and avoid investing in companies with a track record of SLAPPs. They should also urge portfolio companies to drop lawsuits that might be SLAPPs and provide an appropriate remedy in consultation with the defenders affected.
- ➔ **Governments** should reform any laws that criminalize freedom of expression, assembly, and association, and facilitate an environment where criticism is part of the healthy debate on any issue of public concern. They should also hold businesses accountable for any acts of retaliation against defenders.
- ➔ **Law firms and lawyers** should refrain from representing companies in SLAPP suits.
- ➔ **Bar Associations** should develop and update ethics codes to ensure that SLAPPs are a sanctionable offense for members.

The case studies mentioned in this report are not presented here as definitive examples of SLAPPs but bear the hallmarks of such cases using the criteria set out in Annex A of this report. We make no comment on the bona fides or legal merits of the cases themselves.

SLAPP key findings

355 cases

that bear the hallmarks of SLAPPs brought or initiated by business actors globally between January 2015–May 2021

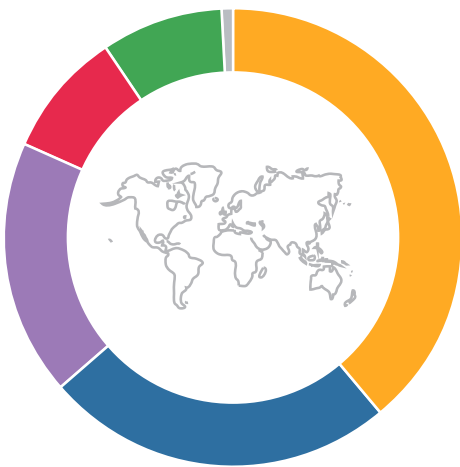
224 cases

in this research involved criminal charges



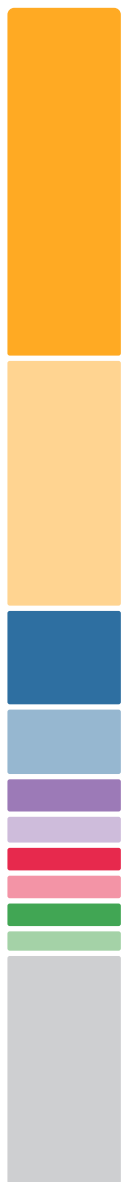
304 were brought against **individuals**, 38 against **organizations**, and 13 against **both individuals and organizations**

SLAPPs are used **in every region** of the world to intimidate people into silence



- Latin America **39%**
- Asia and the Pacific **25%**
- Europe and Central Asia **18%**
- North America **9%**
- Africa **8.5%**
- Middle East and North Africa **0.5%**

Mining	108
Agriculture and livestock	76
Logging and lumber	29
Palm oil	20
Finance and banking	10
Hydroelectric power	8
Oil and gas	7
Energy	7
Poultry	7
Construction	6
Other	72



Introduction

“SLAPPs are meant to intimidate and silence. Never be afraid to fight and to use your freedom of speech to protect you and your community. We all deserve to have clean water, clean air, and to live in a healthy environment. Keep your heart and mind focused on justice and freedom and never stop fighting for your community.”

Esther Calhoun, One of the founders and a former president of Black Belt Citizens Fighting for Health and Justice

Since 2015, the Business & Human Rights Resource Centre (Resource Centre) recorded more than [3,100 attacks](#) worldwide against community leaders, farmers, workers, unions, journalists, civil society groups, and other defenders who have raised concerns about irresponsible business practices.

More than 40% of these attacks were forms of judicial harassment, which includes the use of a range of legal tactics, such as criminal and civil lawsuits, arbitrary detention, abusive subpoenas, and fabricated charges by governments and business actors. Many defenders endure unfair trials and are detained in inhumane or degrading conditions. Strategic lawsuits against public participation (SLAPPs) are one tactic used by business actors within this broader context of judicial harassment.

This first-ever global analysis of lawsuits which bear the hallmarks of SLAPPs brought or initiated by business actors reveals that this tactic is used in every region of the world to intimidate people into silence. While SLAPPs are used against people raising a range of concerns, this analysis specifically focused on criminal² and civil lawsuits initiated by business actors against individuals and groups related to their defense of human rights and/or the environment since 2015 (see [full scope and definition](#)).



Context

“SLAPPs are a stain on our judicial systems, which are supposed to be about fairness, justice and truth. SLAPPs are brought by legal bullies not to vindicate legal rights but to use the machinery of the courts to silence, intimidate, and drain time and resources of, their target. They are brought by the wealthy and the powerful against people and groups who dare to speak up against corruption, waste, unfairness and those despoiling our cultures or environments.”

James Wheaton, Founder and Of Counsel, First Amendment Project, a nonprofit public interest law firm, and adjunct faculty at the Graduate Schools of Journalism at Stanford and University of California Berkeley

SLAPPs masquerade as ordinary lawsuits but in essence constitute an abuse of the legal system. They have significant adverse effects on those working in the public interest, including slowing their activism and draining their resources. SLAPPs can also have both personal and collective consequences since they can deter organizations' human rights work. They often come after defenders have expressed a critique of business actors by publishing a report, participating in an event or interview, launching a campaign, organizing a demonstration, or posting on social media. SLAPPs can have a “chilling effect” on the exercise of freedom of expression if others are afraid to speak out because they might be sued. They also put significant pressure on public resources and cause judicial systems to waste their time on superfluous legal processes. In addition, when judicial systems do not take measures to push back against SLAPPs, they can contribute to a harmful narrative that these lawsuits are a legitimate use of the legal system.

Companies target a wide range of dissenting voices to suppress criticism. SLAPPs target acts of public participation related (but not limited) to human rights, social justice, and environmental protection, including public interest or opposition campaigns. In many instances, the defendants are Indigenous leaders or community members protecting their land and territories from large-scale projects, such as mining or logging, or even journalists covering companies' harmful activities.

Women Garífuna leaders facing criminal charges in Honduras

On 31 July 2017, four Garífuna leaders, Miriam Miranda, Madeline Martina David, Neny Heydy Ávila and Lety Bernáñez, [were accused](#) of libel and slander by a businessman with a tourism and hospitality company. The Garífuna leaders are members of the Black Fraternal Organization of Honduras (OFRANEH) that was defending Garífuna ancestral land from tourism projects.

SLAPPs involve both government and business actors. Under international law, States have an obligation to protect and respect human rights. The UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association has recognized that States have a positive obligation to facilitate the exercise of the rights of freedom of expression, peaceful assembly, and association, without fear of being subject to threats. States must also maintain an environment where criticism is part of public debate and civil society works freely.³ Moreover, the [UN Special Rapporteur on Human Rights Defenders](#) has established that SLAPPs affect the rights of freedom of expression and participation in public affairs.

In addition, the [UNGPs](#) make clear that business actors have a responsibility to respect human rights and avoid infringing on the rights of others. In its mandate to promote the UNGPs, the UN Working Group on Business and Human Rights has addressed the critical role of defenders in the context of business-related impacts and reaffirmed that businesses should identify, prevent and mitigate human rights risks for defenders.⁴

The case studies in this report reveal how business actors exploit existing laws and procedural avenues across jurisdictions to silence their critics. SLAPPs also often occur in a broader context of persecution, stigmatization and delegitimization of defenders' work. This tactic is frequently associated with smear campaigns and other legal threats that can significantly harm defenders' reputations.

Scale of the problem

“ We see that the human rights work that is carried out is a great defense. We see that in Honduras the fact of being a defender is criminalized, persecuted, harassed, even leading to the murder of people just for defending the common good. We see that there is a risk of being a defender of life, but that is the struggle of the communities, to defend natural resources.”

Gabriela Sorto, human rights defender from the community of Guapinol

The Resource Centre has categorized 355 cases brought since 2015 as meeting the definition of SLAPPs⁵ used for this study (full scope and definition available [here](#)), based on a review of publicly available information.⁶ The term “SLAPP” was initially coined by two professors in the United States in the 1980s to refer to civil complaints or counterclaims filed against non-governmental individuals and/or groups because of their communications to a government body, official, or the electorate on issues of public interest or concern.⁷

Given the Resource Centre's focus on business and human rights, our research specifically covers lawsuits brought or initiated by a private party since 2015 against defenders and/or groups focused on business-related activities for exercising their rights to participate in, comment on, or criticize matters of public concern. This includes lawsuits against communities protecting their territories and water from pollution, workers and unions demanding improvement of labor conditions, Indigenous peoples engaged in the defense of their ancestral territories, journalists reporting on companies' harmful activities, and expert witnesses in corporate legal accountability proceedings, among others. This research does not include any lawsuits filed before 2015, even if the rulings have occurred since, or include lawsuits against journalists reporting on issues of public interest unrelated to business, as just two examples.⁸

What is the scope of our research?

This research covers lawsuits brought or initiated since 2015 by a private party against individual defenders, groups, and organizations focused on business-related activities for exercising their rights to participate in, comment on, or criticize matters of public concern. This includes both civil suits and criminal cases.

In light of this, our research captures a limited but illuminating and current picture of the full scale of SLAPPs, and explores how SLAPPs are used by wealthy and powerful companies across the globe to stop the legitimate defense of human rights.

Most dangerous countries and regions

SLAPPs have been brought in every major region in the world, despite differences in legal traditions and judicial systems. The highest number of SLAPPs took place in Latin America (39%), followed by Asia and the Pacific (25%), Europe & Central Asia (18%), Africa (8.5%), North America (9%) and MENA (0.5%). Nearly three-quarters (73%) of cases were brought in countries in the Global South.⁹

The countries with the highest number of SLAPPs were Thailand (49), Honduras (46), Peru (38), and the United States (28). Other countries with high numbers of SLAPPs include France, Mexico, Armenia, Cameroon, Guatemala, Cambodia, the Philippines, and South Africa.

Lawsuits brought by Energy Transfer following opposition to the Dakota Access Pipeline

In August 2017, Energy Transfer (formerly Energy Transfer Partners), the operators of the Dakota Access Pipeline, [filed a lawsuit](#) against Greenpeace, Inc., Greenpeace Fund, Inc., Greenpeace International, BankTrack, the movement Earth First!, and individual defendants accusing them of unlawful and fraudulent speech intended to harm the company and cause it to lose investments in its pipeline. With treble damages available under the Racketeer Influenced and Corrupt Organizations Act (RICO), the company sought close to \$1 billion in damages. In 2019, a federal court dismissed the federal claims against the defendants, but declined to rule on the state claims.¹⁰ The federal judge argued that “posting articles written by people with similar beliefs does not create a RICO enterprise”.¹¹

After this lawsuit was dismissed in federal court, the company [brought another lawsuit](#) in North Dakota state court against the Greenpeace entities and others. The complaint included similar state claims alleged in the prior federal action, but also added property-based claims related to the protest against the Dakota Access Pipeline in North Dakota. As part of this lawsuit, Energy Transfer has issued subpoenas against several individuals and groups involved in the resistance movement at Standing Rock, including [Water Protector Legal Collective](#) and [Unicorn Riot](#).¹² We invited Energy Transfer to respond; it did not. We will publish a response if received in the future.



Common proceedings and legal charges

TYPE OF PROCEEDINGS



A total of 224 (63%) cases in this research involved criminal charges, the majority libel or other defamation charges. The other most common criminal charges were illicit association, usurpation of land, threats, and instigating a strike. In Honduras, for example, companies have used ‘forced displacement’ to denounce defenders.

Seven environmental activists sued by a poultry company in Honduras

On 29 March 2021, seven environmental defenders and members of the Alternative for Community and Environmental Vindication of Honduras – Alternativa de Reivindicación Comunitaria y Ambientalista de Honduras (ARCAH) [were detained and charged](#) with ‘forced displacement’ following a complaint brought by the poultry company ‘El Cortijo’. The defenders were demonstrating outside the company’s offices concerning its activities and connection with the pollution of a local river. On 30 March 2021, they were released and placed under house arrest. In May 2021, the environmental rights defenders were still under house arrest awaiting trial. We invited El Cortijo to respond; it did not. We will publish a response if received in the future.



Many cases combine multiple criminal charges that could result in prison sentences of many years, or even worse, a death sentence.¹³ Facing criminal charges and depriving defenders of their liberty not only harms their reputations, but can also make their colleagues and partners afraid to associate with them for fear of being prosecuted.

Union members in Cambodia sued by their employer

Four members of the Coalition of Cambodian Apparel Workers Democratic Union (CCAWDU) [were sued](#) by their employer Zhong Yin Cambodia B Textile Co. Ltd. over their involvement in factory protests in January 2020 calling for settlements and back pay for more than 200 terminated employees. On 25 March 2020, they were summoned by the Kandal Provincial Court to be questioned under accusations of incitement to commit a felony, threatening to cause damage, and intentionally causing damage. We invited Zhong Yin Cambodia B Textile Co. Ltd. to respond; it did not. We will publish a response if received in the future.

In addition to the trends noted above, companies may also bring other charges specific to that jurisdiction, such as charges related to computer crime laws (Thailand), anti-boycott laws (Israel), and racketeering and conspiracy (USA).

The Arab Human Rights Centre sued by a renewable energy company

On 18 June 2019, the Arab Human Rights Centre in Golan Heights (Al-Marsad), was notified that Energix Renewable Energies (Energix) [filed a suit](#) alleging the organization had violated Israel's defamation law and the anti-boycott law. The lawsuit came after Al-Marsad published a final report on its investigation about Energix's planned development of a wind project on land controlled by native Syrians and argued the project violated the Indigenous Syrian populations' right to self-determination and to exercise sovereignty over its natural resources. On 1 October 2019, Al-Marsad submitted its response denying the violation of the Anti-Defamation Act of 1965 and the Anti-Boycott Act of 2011. The response requested the dismissal of the lawsuit. In February 2020, an initial hearing took place before the Nazareth Magistrate's Court and Al-Marsad rejected a possible settlement with the company. Subsequent hearings have been postponed due to COVID-19 restrictions and the case is still pending.¹⁴ We invited Energix Renewable Energies to respond; it did not. We will publish a response if received in the future.

The Resource Centre also identified at least 105 cases as civil claims, 67% of which were brought in Europe (42) and North America (28). In approximately 7% (25) of cases those using SLAPPs invoked a mix of civil and criminal charges.

Many of the lawsuits include aggressive and disproportionate remedies, such as an excessive amount of damages, a hallmark of SLAPP cases. The Resource Centre found information about the damages requested in 82 of the 355 cases in this study, based on a review of public information. The total amount sought by those bringing SLAPPs in just those 82 cases totaled more than US\$1.5 billion.

In addition, defenders often spend a significant amount of financial resources over a period of years defending themselves in court. For example, in 2015, 19 social leaders in the Apurímac region of Peru were accused of several crimes by the copper mining company MMG Limited Las Bambas. It took more than five years in court in Peru to acquit all the defenders.¹⁵

Activist sued by wine council and other complainants in France

Valérie Murat, a founder and an activist of Alerte aux Toxiques! (Toxic Alert!) in France [was prosecuted](#) for denigration in September 2020 by the Bordeaux Wine Council (Conseil Interprofessionnel du Vin de Bordeaux, CIVB) and 26 other complainants. The complaint came after Murat raised concerns about the use of toxic pesticides in conventional winegrowing practices in the Bordeaux region of France for products labeled HVE or sold as environmentally friendly in France. CIVB argues that the remarks made by Murat were denigrating and undermined the reputation of Bordeaux wines. The legal action included €125,000 in compensatory damages. The case is ongoing.¹⁶ We invited the Bordeaux Wine Council to respond; it did not. We will publish a response if received in the future.

Individual human rights defenders targeted with SLAPPs

The majority of the cases we categorize as SLAPPs in this research (304) were brought against individuals. Organizations were 'SLAPPed' in 38 cases and both individuals and organizations in 13 cases.

An investigative journalist sued by an energy company in Albania

On 26 November 2020, Albtek Energy [filed a lawsuit](#) against Artan Rama, an investigative journalist in Albania. The case centers on a story Rama published on 6 November 2020 in the online publication Portavendore.al, called 'What lies behind the scenes of the second contract for the Elbasan incinerator' ('Prapaskenat e një kontrate të dytë për incineratorin e Elbasanit'). The article reported on a 25 year extension given to Albtek Energy to use a plant for the production of energy from urban waste treatment in the city of Elbasan, beyond the initial seven year term specified in the concession contract. In the lawsuit, the company claims that Rama's article makes unfounded "prejudicial statements". The company is demanding 300,000 lek (US\$2,900) for damages to its reputation, the retraction of the article, and compensation of legal costs. We invited Albtek Energy to respond; it did not. We will publish a response if received in the future.

Community leaders, environmental groups, Indigenous peoples, workers, and trade unionists are among those SLAPPed most often.

Four NGOs and seven of their employees sued by an agro-industrial company

In December 2019, five NGOs - 11.11.11, CNCD-11.11.11, FIAN Belgium, SOS Faim Belgique, and SOS Faim Luxembourg - and seven of their employees were called to appear before an investigating judge in Luxembourg following a [defamation lawsuit](#) initiated by the agro-industrial multinational Socfin Group. The complaint came after FIAN Belgium published a report in March 2019 that alleged serious human rights violations in Sierra Leone related to SOCFIN's operations. The NGOs also published a series of press releases and carried out an awareness-raising initiative at the Socfin General Assembly in Luxembourg in May 2019 about the situation of affected communities in Sierra Leone. As of April 2021, the judicial investigation was ongoing. We invited SOCFIN to respond; the full response is available [here](#).



Worst offending sectors

SLAPP CASES BY SECTOR



Most individuals and groups facing SLAPPs (65% of cases) raised concerns about projects in four sectors: **mining** (108), **agriculture and livestock** (76), **logging and lumber** (29), and **palm oil** (20), revealing a worrying pattern of vexatious litigation in relation to sectors heavily dependent on natural resources. **Other sectors** related to SLAPPs included hydropower, finance and banking, oil and gas, and construction and property development.

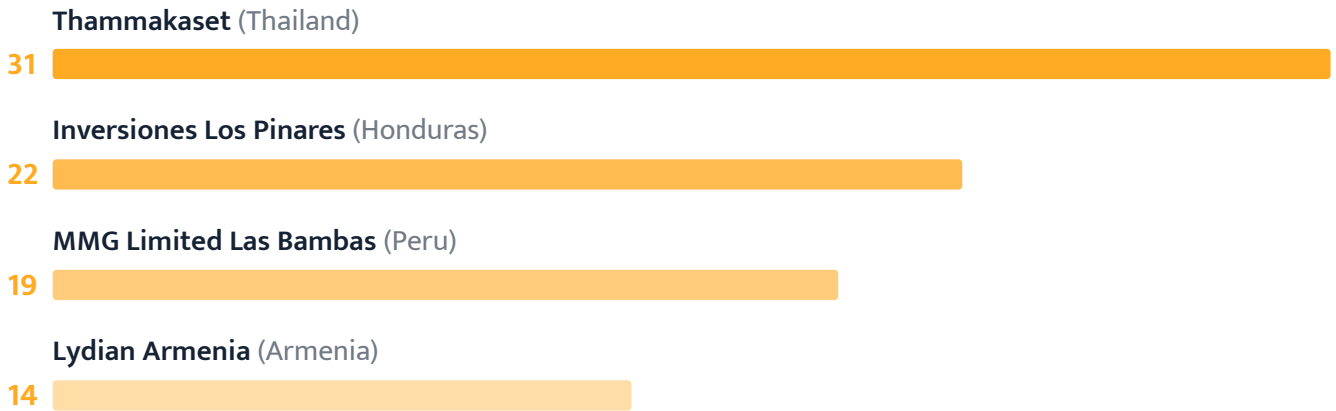
Two lawyers and an environmental activist sued by a mining company in South Africa

In May 2017, the mining company Mineral Commodities Ltd (MRC) and its local subsidiary in South Africa [sued](#) former attorneys of the Center for Environmental Rights, Tracey Davies and Christine Reddell, and the community activist Davine Cloete, for defamation related to their statements during presentations at the University of Cape Town's Summer School in January 2017. Davies, Reddell, and Cloete gave presentations about environmental harms associated with the Tormin mineral sands mine situated on the West Coast, approximately 350 kilometers north of Cape Town, operated by the Mineral Sands Resources (MSR), a subsidiary of MRC. The company claimed R250 000 (US\$16,000) in damages from each defender. In February 2021, the High Court (Western Cape Division, Cape Town) dismissed the defamation charges. We invited Mineral Commodities Ltd to respond; it did not. We will publish a response if received in the future.



Worst SLAPPers

COMPANIES THAT HAVE SUED THE MOST DEFENDERS



Between January 2015 and April 2021, 110 companies, and businesspeople connected with companies, brought or initiated the cases included in this research.¹⁷ At least 11 of these companies were repeat offenders, having been involved in more than one judicial proceeding.


There has been a legal outcome in 116 cases included in this research, based on a review of publicly available information (not including legal documents). Sixty percent (69) of these have resulted in either dismissal of the claims or a decision in favor of the defendants, and in an additional 23% (25 cases) the companies dropped the proceedings.

Four companies, three of which are in the mining sector, were involved with a quarter (24%) of all cases included in this research. These four companies brought lawsuits against 86 defenders in Thailand, Honduras, Peru, and Armenia. Several of these cases are described below.

Investor Alliance for Human Rights Statement on Strategic Lawsuits Against Public Participation (SLAPPs)

The undersigned, representing 44 institutions with US\$270 billion of combined assets, call on companies to take broad, systemic action to protect human rights defenders, and immediate action to ensure that they do not use or support strategic lawsuits against public participation (SLAPPs) against individuals, organizations, or communities who peacefully promote or protect human rights and the environment.

... SLAPPs reflect an abuse of the legal system by powerful actors to drain the resources of defenders, including community members, environmental advocates, Indigenous peoples, workers, trade unionists, journalists, and others who speak out, and to make others afraid to do the same. In light of these and other egregious attacks against human rights defenders, it is urgent for companies and investors to denounce acts that restrict or impair the legitimate work of defenders and to take positive steps to challenge the erosion of civic freedoms. Under the [UN Guiding Principles on Business and Human Rights](#), companies and investors have a responsibility to avoid infringing on the rights of others and to identify, prevent, and mitigate human rights risks to defenders. Investors and companies should enact clear public policies to support the work of and not retaliate against defenders and include risks to defenders in their human rights due diligence... [The full statement is available [here](#).]



Thammakaset (Thailand)

The poultry company Thammakaset sued at least 31 people in Thailand, [including migrant workers, activists and journalists](#) who raised allegations about labor rights abuses by the company. In 30 of these cases, the company filed criminal charges against the defenders.

“ *The key lesson I have learned in our fight against SLAPPs in Thailand is to continue to speak truth to power, whether to government officers or to the business sector. It is important to continue our legitimate work and use our voice to support marginalized communities to achieve human rights and economic and environmental justice.*”

Sutharee Wannasiri, human rights advocate

One example is the [civil defamation suit against defender Sutharee Wannasiri](#). Thammakaset requested around US \$160,720 (5,000,000 Thai Baht) in compensation for alleged damage to the company’s reputation and demanded a public apology. The lawsuit came after Sutharee posted a campaign video produced by Fortify Rights on her Twitter account, which detailed labor conditions at the Thammakaset farm and called on Thai authorities to drop the lawsuit against 14 Myanmar migrant workers. On 28 August 2019, after a mediation, Thammakaset dropped the civil complaint. Sutharee has also faced two criminal defamation complaints brought by Thammakaset for the same posts made on Twitter. One of the complaints was filed in October 2018 with the police and was halted by the prosecutor in August 2019. The other criminal complaint was dismissed by the Criminal Court on 8 June 2020. Thammakaset appealed the court’s ruling in October 2020. The case is now pending before the Appeal Court.¹⁸ We invited Thammakaset to respond. We will publish a response if received in the future.





Inversiones Los Pinares (Honduras)

The Inversiones Los Pinares mining company with operations in Honduras has criminally denounced at least 32 water and environmental defenders from the Municipal Committee for the Defense of Common and Public Goods – Comité Municipal de Defensa de Los Bienes Comunes y Públicos (CMDBCP) in the municipality of Tocoa, Colon, in response to their resistance to the company's iron oxide mining project inside a national park and protected area. CMDBCP has filed criminal complaints demanding an investigation into the illegal manner in which the licenses required to operate the mine were granted, as well as for environmental contamination, but there has been no response by the State. Meanwhile, the Public Prosecutors Office [filed charges](#) against the defenders in response to the complaints filed by the company concerning the installation of a legitimate protest camp in September 2018. Eight defenders have been in arbitrary pretrial detention for more than 20 months awaiting trial on aggravated arson and deprivation of liberty charges.¹⁹ We invited Inversiones Los Pinares to respond; it did not. We will publish a response if received in the future.



MMG Limited Las Bambas (Peru)

MMG Limited Las Bambas is a copper mining company located in Cotabambas in the Apurímac region of Peru. In 2015 the company [accused 19 social leaders](#) in Apurímac of illicit association to commit a crime, aggravated damages, disturbances, and illegal possession of weapons and explosives. According to the Peruvian Criminal Code, the penalties for those crimes are between 11 and 17 years of imprisonment. The criminal case was initiated following demonstrations in September 2015 by local community members in opposition to the company's mining project. In March 2020, the Unipersonal Court of Cotabambas acquitted all 19 leaders due to a lack of sufficient evidence. We invited MMG Limited Las Bambas to respond; it did not. We will publish a response if received in the future.





Lydian Armenia (Armenia)

Lydian Armenia CJSC operates the Amulsar Gold Project in southern Armenia. The company sued at least 14 people for defamation, including environmental activists, community leaders, and journalists because they questioned the legitimacy of the company's operations and opposed the construction of a gold mine.²⁰

One of these individuals is Nazeli Vardanyan, a licensed advocate, member of the fact-finding Working Group (WG) on the Amulsar mine established under the Armenian Prime Minister's order, and author of a legal report about the mine. On 21 December 2018, Lydian Armenia [filed a complaint](#) against Vardanyan (Court Case No. ED/30203/02/18) on the grounds of discrediting its business reputation. The lawsuit is based on questions Vardanyan asked during a WG session about suspected corruption related to the transfer of money from Lydian Armenia to the Jermuk Foundation that operates in the town near the mine. Lydian demanded that Vardanyan retract her question and pay Lydian 1 million AMD (US\$2,000). On 12 December 2019, the court held a hearing, but Vardanyan was not notified because Lydian Armenia gave the wrong address for her in its court filings. The court of first instance ordered Vardanyan to retract in a newspaper and pay 100,000 AMD (US\$200). The court of appeal ordered her to pay 50,000 AMD (US\$100) without a retraction. Vardanyan appealed the decision to the Court of Cassation. We invited Lydian Armenia to respond; the full response is available [here](#).



The role of law firms

SLAPPs are, in part, made possible by law firms and lawyers agreeing to represent the companies who bring these cases. The Resource Centre was able to identify 19 law firms and lawyers that represented companies in lawsuits against 38 defenders and organizations. We were unable to identify the lawyers and law firms involved in the remaining cases as this information was not publicly available.

Some law firms were involved in bringing more than one SLAPP suit. For example, the law firm Kasowitz Benson Torres LLP has been engaged in three different proceedings in the United States categorized as SLAPPs in this research. This includes two cases filed by Energy Transfer against people and groups who expressed opposition to the Dakota Access Pipeline project, including one against [Greenpeace International, BankTrack, and the movement Earth First!](#) and another against Indigenous human rights defender [Krystal Two Bulls](#). We invited Kasowitz Benson Torres LLP to respond; the firm declined to respond.

In a third case, the same law firm represented Resolute Forest Products Inc. in a lawsuit against [Greenpeace International, Greenpeace USA, Greenpeace Fund Inc., STAND \(formerly ForestEthics\), and five individual staff members of these organizations](#), alleging the defendants misrepresented facts in order to induce donations, and used false claims to “extort” Resolute customers. Resolute claimed at least US\$300,000,000 in damages. On 16 October 2017, the US District Court for the Northern District of California dismissed all the company’s claims with leave to amend. The court also awarded the defendants their attorneys’ fees pursuant to the California anti-SLAPP statute. We invited Resolute to respond; the full response is available [here](#). A rejoinder from Greenpeace defendants is available [here](#).



The impact of COVID-19 on SLAPP cases

The COVID-19 crisis has put considerable further pressure on defenders facing SLAPPs. Courts have postponed or suspended hearings (e.g. in the [US](#), [Malaysia](#), [Croatia](#), and [Guatemala](#)), established temporary court closures to visitors (e.g. in [Venezuela](#), [Philippines](#), [Guatemala](#), and [Portugal](#)), postponed deadlines (e.g. in [Panama](#), [Colombia](#), [Peru](#), and [Spain](#)), enacted restrictions on access to courts (e.g. in [South Africa](#)) and moved to online trials (e.g. in [Canada](#), [Italy](#), [Armenia](#), and the [UK](#)).²¹ The effects on defenders have included prolonged pre-trial detention and challenges accessing their trials due to limited internet access.²²

“ Not too long ago, we, the people of Kosovo sacrificed everything for a chance to speak freely in defence of our rights, including the fundamental right to water. And this is simply what we are doing! We owe it to those who gave their lives and gave us the privilege to be the first generation of Kosovars to live in democracy.”

Shpresa Loshaj, human rights defender in Kosovo



Existing legal protections

Anti-SLAPP legislation is a critical tool to prevent the use of SLAPPs and protect freedom of expression and assembly. The US, Canada, Australia, Indonesia, the Philippines, and Thailand all have some form of anti-SLAPP legislation. Most of these laws include motions to dismiss cases in the early stages, the suspension of the discovery process, and the recovery of litigation costs for the defendants.



Several states in the US have implemented [anti-SLAPP legislation](#) to protect First Amendment rights, which include freedom of speech, press, and assembly. However, these laws vary in scope and do not provide protections for about half of the country or cover cases in federal courts. Where these laws exist, they have been effectively used to dismiss cases and safeguard people speaking out in the public interest.

One example is the [lawsuit brought by CoreCivic against Morgan Simon and Candide Group](#). Morgan Simon is a founding partner of Candide Group, which works with families, foundations, athletes, and cultural influencers who want their money working for social justice. As a registered investment advisor their primary activity is social investing, but part of their mission is to change the culture of money. In that context Simon serves as a Senior Contributor to Forbes, and has written extensively about the link between banks, private prisons, and immigrant detention. Simon has called attention to CoreCivic, one of the largest private prison operators in the United States, and its role in mass incarceration and the separation of migrant families through her Forbes column and other forums. In March 2020, CoreCivic sued Simon and the Candide Group for defamation, saying the company did not participate in family separation nor certain lobbying activities. On 19 November 2020, a judge from the Northern District of California dismissed the lawsuit without leave to amend, concluding that the alleged defamatory statements were permitted under the First Amendment and California defamation law. In April 2021, a California court ordered CoreCivic Inc. to reimburse Morgan Simon and Candide Group for the costs associated with their defense stating that the California anti-SLAPP law created a “substantive right” to attorney fees that didn’t conflict with the rules of federal procedure. CoreCivic has appealed this decision, such that at the time of writing this is an active lawsuit. We invited CoreCivic to respond; the full response is available [here](#).





In Canada, the provinces of [Québec](#), [Ontario](#), and [British Columbia](#) have also enacted Anti-SLAPP provisions. Australia has Defamation Laws and provisions to protect public participation.



In Europe, there is also an ongoing civil society initiative promoting an [EU anti-SLAPPs law model](#) as a tool to protect public watchdogs from legal harassment and hold SLAPP users to account. Additionally, in December 2020 the European Commission's Directorate General for Justice and Consumers announced the formation of an [Expert Group Against SLAPPs](#) to assist the Commission in the preparation of legislative proposals and policy initiatives.



In South Africa, although there is no anti-SLAPP legislation, the [High Court](#) (Western Cape Division, Cape Town) recently dismissed a series of defamation lawsuits brought by the Australian mining company Mineral Commodities Ltd (MRC) and its local subsidiary against six environmental activists as an abuse of the legal process (see [case study](#)). The Court accepted the defendants' arguments and [stated](#) "corporations should not be allowed to weaponize our legal system against the ordinary citizen and activists in order to intimidate and silence them". The Court also argued that SLAPPs represent an abuse of the judicial process and undermine the fundamental notions of justice. This decision shows courts have the power to protect defenders from this type of abusive litigation even in the absence of explicit anti-SLAPPs laws.

“ From our own experience in South Africa, coalition building is incredibly important. Being able to have a group of activists that are able to support individuals and organizations to implement and amplify anti-SLAPPs initiatives is incredibly important. That is one of the main lessons we have learnt in addressing SLAPPs in South Africa. Big corporations need to understand that civil society is not to be bullied or intimidated in any way and a growing number of activists are coming together to resist these kinds of tactics”.

Leanne Govindsamy, Programme Head: Corporate Accountability and Transparency,
Center for Environmental Rights (CER)

Additionally, as the Resource Centre has demonstrated in its 2020 Annual Report “[Defending Defenders: Challenging Malicious Lawsuits in Southeast Asia](#)”, Thailand, the Philippines, and Indonesia have important pieces of legislation to guard against lawsuits that may restrict the work of defenders. These are still severely restricted in scope but can be used to push for greater reform in anti-SLAPP legislation.



Pushing back against the use of SLAPPs

Civil society groups and defenders across the globe are pushing back against this abusive tactic, including through legal means, coalitions, and research.

Communities fighting back

In May 2017, nine people in Weed, California, who voiced concerns about their community losing access to a public spring water source [were sued](#) by the timber company Roseburg Forest Products. The lawsuit purported to seek resolution to ownership issues regarding the water source, yet none of the defendants named in the suit claimed to have the water supply's rights or title. In December 2017, the Superior Court dismissed Roseburg's lawsuit against the nine Weed residents under California's anti-SLAPP law, finding the lawsuit was an attack on these citizens' constitutionally protected free speech rights. Roseburg Forest Products appealed this decision. In a settlement reached in December 2019, Roseburg agreed to reimburse the defendants' legal fees and other costs fully and to drop its appeal of the court's decision. After years of fighting this SLAPP, the community leaders filed a lawsuit in the Siskiyou County Superior Court of California, alleging the Sacramento law firm Churchwell White LLP (now White Brenner LLP) and two of its attorneys engaged in malicious and unlawful conduct by filing the initial lawsuit in May 2017. This lawsuit is ongoing.²³ We invited Roseburg Forest Products and White Brenner LLP to respond; they did not. We will publish responses if received in the future.

“ The terrible truth is that, unless challenged, these tactics work. Think of all the people who did not get involved with this fight because they did not want to get sued by a vindictive billion-dollar timber company... Our organization suddenly had to turn all of our energy, and our limited funds, to fight this lawsuit. We couldn't focus on what actually mattered —protecting the water for our town. That's the real lasting harm —to our reputations, our bank accounts, our community, and to everyone's ability to speak up when something is wrong.”

Jim Taylor, President of Water for Citizens of Weed California



Photo by:
Protect the Protest
task force

In the case study of the community leaders from Guapinol sued by Inversiones Los Pinares, the community has raised awareness about the situation of the eight imprisoned leaders in national and international forums. In February 2021, the UN Working Group on Arbitrary Detention concluded that the detention of the community leaders is arbitrary and does not comply with international human rights standards and urged the State of Honduras to immediately release them from prison.²⁴

SLAPP coalitions

Across the globe, civil society groups and defenders are banding together to stop the use of SLAPPs to silence dissent.

In South Africa the advocacy campaign '[Asina Loyiko: United Against Corporate Bullying](#)' was formed in 2019 in response to SLAPP suits brought by the Australian Mining company Mineral Resources Commodities (MRC) and its South African subsidiary, Mineral Sands Resources (Pty) Ltd (MSR), against six environmental rights defenders. The campaign aims to raise awareness about the threats environmental rights defenders face, stop the use of SLAPPs and other tools to silence activists and unite civil society against these forms of corporate bullying.

[Protect the Protest](#) is a task force of non-profit organizations working to protect the free speech of public interest advocates in the United States by providing legal, communications, and policy support and building resilience among civil society actors.

The [Coalition Against SLAPPs in Europe \(CASE\)](#) is a coalition of NGOs representing a range of public watchdogs across Europe united in recognition of the threat posed by SLAPPs. In France "[On ne se taira pas](#)"/"[We will not be silent](#)" campaign brings together people and organizations that fight against gagging lawsuits.

Research on SLAPPs

Several NGOs have engaged in research to shed light on the scale and nature of this form of attack. In 2020 the International Center for Not-for-Profit Law (ICNL) published a report on SLAPPs in the Global South. The [report](#) concluded that SLAPPs are a serious threat, particularly for activists, civil society organizations, journalists, and community members. Greenpeace International also released a [report](#) focused on the widespread use of SLAPPs in Europe. The report recognized SLAPPs as part of a broader repertoire of methods to silence critical voices and shrink space for activism. It included recommendations for an EU anti-SLAPP directive that should include an early dismissal mechanism, compensation and support for victims, and deterrent measures.

The Resource Centre has published three briefings on SLAPPs, including: "[Silencing the Critics: How big polluters try to paralyse environmental and human rights advocacy through the courts](#)"; "[Defending defenders: Challenging Malicious Lawsuits in Southeast Asia](#)"; and "[Strategic Lawsuits against Public Participation: Southeast Asia cases & recommendations for governments, businesses, & civil society](#)".

Conclusion

Despite differences in legal frameworks and systems, SLAPPs continue to be filed against people engaged in defense of rights and the environment across the globe. These lawsuits have significant adverse effects on the work of defenders and others working in the public interest, including slowing activism, draining resources, and creating a “chilling effect” on freedom of expression and legitimate human rights work.

“*In order to protect human rights, we must protect those who defend them and who frequently face risks to their life, integrity and liberty for doing so. Latin America is the most dangerous region in the world for human rights defenders and in recent years, in addition to threats, harassment, and acts of violence, CEJIL has documented a significant increase in cases of criminalization.*

This important report helps identify SLAPPs as a critical part of this criminalization phenomenon and contributes evidence of how widespread the practice is in our region. As an organization that has worked for three decades alongside defenders to strengthen their protection, we know the analysis and conclusions in this report will be important to urge judiciaries to take decisive measures to verify and ensure that judicial proceedings initiated by state or non-state actors do not become tools to harass, silence and obstruct the work of defenders. As CEJIL has helped establish through numerous cases, the failure to do so may make States internationally responsible for violating the right to defend rights.”

Viviana Krsticevic, Executive Director,
Center for Justice and International Law (CEJIL)

Raising awareness about the scale and nature of SLAPPs is one important step in addressing this problem, but nothing will change without follow-up action. There is an urgent need for governments, companies, investors, civil society, and the legal community to take action to protect all of us against this attack on freedom of expression and legitimate defense of human rights and the environment.



Recommended actions

Preventing the use of SLAPPs and safeguarding freedom of expression and association involves numerous actors, including investors, companies, civil society organizations, the legal community, and governments. We recommend the following:

Investors should:

- ➔ Publish a public human rights policy that recognizes the important role of human rights defenders in identifying risks associated with business activities and has a clear policy of zero tolerance on attacks against defenders.
- ➔ Undertake rigorous human rights due diligence and review potential investees for their history of SLAPPs, or other forms of judicial harassment, and avoid investing in companies with a track record of SLAPPs.
- ➔ Clearly communicate human rights expectations to portfolio companies, including direction not to bring lawsuits which silence critics.
- ➔ Asset owners should incorporate human rights expectations, which “include respecting the rights of defenders and refraining from bringing SLAPPs”, in their investment policy statements to guide asset managers in their investment decision-making.
- ➔ Asset managers should communicate their human rights expectations for portfolio companies with asset owners, including respecting the rights of human rights defenders by not bringing SLAPPs.
- ➔ Encourage portfolio companies to: (1) engage with peers and policymakers, especially through multi-stakeholder initiatives that could increase their understanding of the importance of defenders’ work and industry best practice; and (2) not be part of organizations and lobby groups that target or otherwise undermine civil society organizations and individual defenders.
- ➔ Engage in discussions regarding public policy on this topic whenever this is appropriate and supported by local civil society. This includes raising the importance of anti-SLAPP legislation with government bodies.

Companies should:

- ➔ Commit to a clear public policy of non-retaliation against defenders and organizations that raise concerns about the company and its business practices and adopt a zero-tolerance approach on reprisals and attacks on defenders in their operations, value chains, and business relationships.
- ➔ Refrain from and commit to not using SLAPPs or other forms of judicial harassment to stop public participation and advocacy.
- ➔ Communicate expectations for their business partners, suppliers, and contractors to not bring SLAPPs with the intention of silencing critics, continuously monitor their use and act consistently on their findings.
- ➔ Implement due diligence procedures in accordance with the UNGPs for the prevention of harm and human rights abuse of individuals, communities, and the environment, which explicitly recognize the risks to defenders. Companies investing or working in areas and/or sectors with high levels of attacks must prioritize the risks to defenders in their human rights due diligence and act consistently on their findings.

- ➔ Raise the problem of SLAPPs with governments in the countries where they are based and operate in their regular engagement, encouraging the enactment of anti-SLAPP legislation and measures which will help level the playing field for responsible companies.
- ➔ Engage stakeholders to address criticism and protest, instead of suing them.
- ➔ Embed their stance and approach on SLAPPs into a wider preventative approach towards risks to defenders. More guidance is available [here](#) and [here](#).

Governments should:

- ➔ Pass anti-SLAPP legislation and laws protecting human rights defenders and civic freedoms, including procedures that allow early dismissal of SLAPPs, recovery of court costs for the defendants, and penalties for SLAPP users.
- ➔ Protect the rights to freedom of expression, assembly, and association in the context of activism in business and human rights. This includes avoiding any measures which criminalize non-violent advocacy and protest, as well as holding businesses accountable for acts of retaliation against defenders.
- ➔ Facilitate an environment where criticism is part of the healthy debate on any issue of public concern through the legislative, judiciary, executive, and regulatory branches.
- ➔ Work towards the elimination of laws that criminalise or penalize in any way (including civil laws) the freedom of expression, assembly, and association, such as defamation laws.
- ➔ Promote the active involvement of defenders and civil society organizations in the discussion on implementing strategies to prevent and sanction the use of SLAPPs.
- ➔ Ensure that all justice actors – judges, prosecutors, law enforcement, and public defenders – have the legal framework to dismiss SLAPPs quickly and to impose sanctions to SLAPPs perpetrators.
- ➔ Ensure the protection and immunity of expert witnesses and lawyers who are required to testify in courts and provide assistance and legal aid to defenders facing SLAPPs.

Law firms should:

- ➔ Undertake rigorous due diligence to ensure the cases they take on are not SLAPPs and refrain from representing companies in SLAPP suits against defenders.
- ➔ Advise their clients to abstain from using SLAPPs.
- ➔ Provide pro bono support to defenders and organizations facing or potentially encountering SLAPPs, including advice on managing risks in relation to public statements and reports.

Bar associations should:

- ➔ Develop and update ethics codes to ensure SLAPPs are a sanctionable offense, stipulating that lawyers who use these abusive tactics face sanctions.

Annex

Scope of our research

SLAPPs can take different forms across various jurisdictions and legal contexts.²⁵ The Resource Centre's research covers lawsuits brought or initiated since 2015 by a private party against defenders and/or groups focused on business-related activities for exercising their rights to participate in, comment on, or criticize matters of public concern. These lawsuits include civil suits, as well as criminal cases when and if a company or individual connected with the company has initiated the criminal complaint. In our research, we cover cases brought against individuals and organizations.

How to identify SLAPPs?

When assessing whether lawsuits bear the hallmarks of SLAPPs the Resource Centre considers if:

- ➔ The lawsuit is brought or initiated by a private party (such as a company, owner of a company, or employees at a company).
- ➔ The lawsuit targets acts of public participation related (but not limited) to human rights, social justice, and environmental protection, including public criticism or opposition campaigns. Public participation can encompass a range of activities, from peaceful protest to writing blogs – assuming the latter is in the public interest.
- ➔ The lawsuit came after the defender and/or organization expressed a critique of the claimant's economic activities by publishing a report, posting on social media, participating in an event or interview, launching a campaign, organizing a demonstration, and/or another peaceful means.

The Resource Centre has also taken into account a set of criteria developed by Greenpeace International²⁶ to identify the improper use of lawsuits:

- ➔ Remedies sought are aggressive or disproportionate to the conduct targeted by the lawsuit or sanctions are severe (e.g. large amount of monetary damages or long prison sentences).
- ➔ The plaintiff is engaged in procedural maneuvers that appear intended to drag out the case.
- ➔ The plaintiff appears to be exploiting its economic advantage to put pressure on the defendant.
- ➔ The lawsuit targets individuals as well as the organizations for whom they work.
- ➔ The arguments relied on are factually or legally baseless.
- ➔ The plaintiff uses the litigation process to harass third-party critics (e.g. through the discovery process).
- ➔ The lawsuit appears to be part of a wider public relations offense designed to retaliate against, bully or intimidate critics.
- ➔ The corporate plaintiff has a history of SLAPPs and/or legal intimidation.

Endnotes

- 1 The analysis in this paper is solely based on the evidence from this database.
- 2 The Resource Centre recognizes that in criminal prosecutions – which are typically initiated by the state in several jurisdictions around the world – it can be challenging to determine a company’s involvement, making it harder to identify these cases as SLAPPs. This is particularly true if a company has not admitted to initiating legal proceedings and/ or when the company’s involvement has not been adequately documented. Also, in many countries in the Global South there is a close relationship between businesses and state actors. Thus, civil society groups often believe that criminal cases brought by prosecutors are actually initiated by companies. The lack of publicly available documentation of these relationships makes it harder to expose these cases as SLAPPs. Given these challenges, we have only categorized a lawsuit as a SLAPP in this research if the company’s involvement was reported in at least two publicly available sources.
- 3 “Slapps and FoAA Rights, Info Note by The United Nations Special Rapporteur on the Rights of Freedom of Peaceful Assembly and of Association”, Ms. Annalisa Ciampi.
- 4 UN Working Group on Business and Human Rights has referred to the important role of human rights defenders and specifically to strategic lawsuits against public participation in the report on its visit to Thailand [A/HRC/41/43/Add.1](#) and its report on its visit to Peru [A/HRC/38/48/Add.2](#).
- 5 In this research, we consider each individual or organization sued as a “case” when the name is publicly available. For example, if a lawsuit was brought against seven individuals, but only one person’s name is shared through public sources, we’ve counted this as only one case. If the names of all seven individuals were publicly shared, this would be counted as seven cases. Our dataset includes cases filed from 1 January 2015 – 1 May 2021, as this aligns with the period during which the Resource Centre has tracked attacks against human rights defenders. However, we recognize that many SLAPPs have been filed before 2015 and so our research provides a limited picture of the full scale of SLAPPs.
- 6 This research is based on a review of media sources, NGO reports and websites, and social media posts in English, Spanish, and French. In order for a case to be included in this research, it must have been reported in at least two reliable sources and met the definition used for this research (available [here](#)). In some cases, additional information was sought from civil society organizations and human rights defenders directly.
- 7 George W. Pring, “SLAPPs: Strategic Lawsuits against Public Participation,” *Pace Environmental Law Journal* 7, no. 1 (1989): 7-8.
- 8 This research specifically covers lawsuits brought against human rights defenders focused on business-related activities since January 2015, based on publicly available information. It does not include cases brought before 2015 or SLAPPs against people unrelated to human rights or environmental defense. Other limitations are some cases are not reported publicly due to security risks, for example in places where media freedom and independent journalism are under attack. In addition, this research did not include an extensive review of legal documents. Given these limitations, we know the 355 cases included in this research do not cover the full scope and scale of SLAPPs.
- 9 This percentage is the sum of the total number of cases in Latin America, Africa, Middle East and North Africa, and Asia.
- 10 For more information about the case see: [U.S. court dismisses Energy Transfer Partners lawsuit against Greenpeace](#); and [Energy Transfer Partners v. Greenpeace, BankTrack, et al.](#)
- 11 See the order [here](#).
- 12 For more information about the case see: [DAPL developer files new lawsuit against Greenpeace](#).
- 13 See for instance, [the case against two whistleblowers in the Democratic Republic of Congo](#).
- 14 For more information about the case see: [Appeal to UN experts: Protect human rights in the Golan](#).
- 15 For more information about the case see: [Las Bambas: Absuelven a 19 comuneros de Apurímac denunciados por minera](#).
- 16 For more information about the case see: [Libourne: le CIVB en procès contre l’association Alerte aux toxiques ce jeudi](#); and [Condamnée à 125 000 euros pour avoir dénoncé la présence de pesticides dans du vin](#).
- 17 The Resource Centre has contacted the companies involved in bringing or initiating the lawsuits and gave them an opportunity to comment before publishing this report. The responses we received are available on our website.
- 18 For more information about the cases see: [Thailand: Thammakaset sues HRDs for defamation on work supporting chicken farmers; groups urge govt to stop judicial harassment](#).
- 19 For more information about the case see: [Libertad para Guapinol. Presos políticos por defender los ríos en Honduras](#).
- 20 For information about other cases in Armenia see: [Ongoing judicial harassment and defamation campaign against environmental defenders by the mining company Lydian Armenia](#).
- 21 For information regarding measures in other countries see: [Medidas, acuerdos y resoluciones contra la epidemia de coronavirus en los Tribunales, Salas y Cortes de la Conferencia Iberoamericana de Justicia Constitucional. Management of the judiciary – compilation of comments and comments by country](#).
- 22 For updates on implications of the COVID-19 pandemic for business and human rights generally visit [our portal](#).
- 23 For more information about the case see [here](#).
- 24 UN Working Group on Arbitrary Detention, [Opinión núm. 85/2020, A/HRC/WGAD/2020/85](#).
- 25 Including subpoenas, cease and desist letters, interdictions, injunctions, and lawsuits.
- 26 For more information see: [Sued into Silence: How the rich and powerful use legal tactics to shut critics up](#).



Business & Human Rights Resource Centre

JUNE 2021

Business & Human Rights Resource Centre is an international NGO that tracks the human rights impacts of over 10,000 companies in over 180 countries, making information available on our 10-language website.

AUTHORS

Lady Nancy Zuluaga and Christen Dobson

LEAD RESEARCHER

Lady Nancy Zuluaga

RESEARCH SUPPORT

Andrea Pelliconi

We are very grateful to the individuals, organizations, and coalitions who shared their stories, expertise, and insights as part of this research.