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Corporate Legal Accountability Resource Sheet: Anti-SLAPP Legislation

Strategic Lawsuits Against Public Participation (SLAPPs) are frequently deployed by companies to silence and harass critics. SLAPPs seek to manipulate the judicial system by masquerading as legitimate legal claims, abusing laws (e.g., on libel/defamation) to target valid and protected speech or protest. Several countries have passed legislation that aims – or can be used – to protect defenders against SLAPPs. There are also various proposals for anti-SLAPP legislation in several countries where such protection is currently lacking.

This Resource Sheet provides an overview of Anti-SLAPP laws and initiatives around the world, key messages and recommendations and further reading on the topic.

1. Anti-SLAPP Laws and Proposals

Anti-SLAPP Legislation

In the Americas:

- Canada
 - British Columbia – [Protection of Public Participation Act 2019](#).
 - Ontario – [Protection of Public Participation Act 2015](#).
 - Quebec – Articles 51-54 of the [Code of Civil Procedure, CQLR c C-25](#).
- USA
 - The public Participation's [State Anti-SLAPP Reference Chart](#) provides up-to date information on US states.
 - [32](#) states currently have Anti-SLAPP laws.

In Asia and the Pacific:

- Australia
 - Australian Capital Territory – [Protection of Public Participation Act 2008](#).
- Indonesia
 - Article 66 of the [Law No. 32/2009 on Environmental Protection and Management](#).
 - Article 78 (1) of the [Law No. 18/2013 on the Prevention and Eradication of Forest Destruction](#).
- Philippines
 - [Supreme Court Rules of Procedure for Environmental Cases 2010](#).
- Thailand
 - Section 161/1 of the Criminal Procedure Code (amended in 2019).

In Europe

- UK
 - [Economic Crime and Corporate Transparency Act \(ECB2\)](#) (amended in 2023). The law only provides protection for speaking out on economic crimes.

Anti-SLAPP Initiatives

- Colombia
 - [Proposal](#) to introduce anti-SLAPP provisions and amend the General Code of Procedure and Law 906 of 2004, to eradicate judicial or litigious harassment aimed at curtailing the rights to freedom of expression, information and association.
- European Union:
 - [Proposal](#) for a Directive of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings (“Strategic lawsuits against public participation”).
 - On 30 November 2023, the Council of the EU and the European Parliament reached a [political agreement](#) on an anti-SLAPP directive. It is expected to be published in April 2024, becoming enforceable by 2026 upon final approval.
 - The legislative process for the Directive [started](#) in October 2022 after [consultations](#).
- Ireland:
 - The Minister of Justice proposed [modifying](#) the Irish Defamation Bill to include a SLAPP component in February 2022.
 - In May 2023, the Council of the Bar of Ireland made [recommendations](#) to the Joint Committee on Justice for amending the Defamation Bill to include anti-SLAPP provisions. The new law could come into force by the end of 2023.
- United Kingdom:
 - In June 2023, it was announced that the economic crime and corporate transparency bill would be amended to include an early dismissal mechanism for SLAPPs. Judges would be able to dismiss SLAPPs at an earlier stage by determining whether a case at hand is a SLAPP and whether the claim has a reasonable chance of prevailing.
 - UK Ministry of Justice: Strategic Lawsuits Against Public Participation (SLAPPs) [Government response to the Call for Evidence](#)
 - Ministry of Justice: Strategic Lawsuits Against Public Participation (SLAPPs) - [A Call for Evidence](#).
 - UK Anti-SLAPP Working Group: “[Proposals for Procedural Reform](#)” covers judicial guidance, civil procedure reform and a UK Anti-SLAPP Law
 - Foreign Policy Centre’s paper: “[On Countering Legal Intimidation and SLAPPs in the UK](#)” exploring legislative and regulatory initiatives to counter SLAPPs, including a potential domestic anti-SLAPP law.
- United States
 - [SLAPP Protection Act of 2022](#): A Congressman [introduced](#) a federal Anti-SLAPP bill in Congress in September 2022. While more than half of US states have their own Anti-SLAPP laws, there is currently no national level Anti-SLAPP legislation in place.

2. Key Messages

- **SLAPPs are an abuse of the law**, not a legitimate use of the law. Unscrupulous companies abuse existing legal frameworks and laws, such as those on libel and other types of defamation, to pursue expensive and demoralising legal proceedings.

SLAPPs are often accompanied by other types of attacks against defenders, in some cases perpetrated by the state, such as intimidation, threats and various forms of judicial harassment, including both civil and criminal legal action.

- **In order to effectively fight SLAPPs, we need robust legal frameworks that prevent companies from filing SLAPPs in the first place** and allow courts to identify, call out and dismiss them as soon as they are filed.

3. Key Recommendations

Governments should

- Enact anti-SLAPP laws that prohibit SLAPPs and penalise businesses that file these types of cases.
- Ensure that the judiciary is aware of SLAPPs and empowered to take action to dismiss them.
- Provide support to HRDs who are facing SLAPPs and consult them on anti-SLAPPs efforts.

Investors should

- Engage in discussions regarding public policy on SLAPPs, whenever this is appropriate and supported by local civil society. This includes raising the importance of anti-SLAPP legislation with government bodies.
- Communicate that they expect investee companies will not bring lawsuits with the intention of silencing critics, continuously monitor their use, and act consistently on their findings.

Companies should:

- Refrain from and commit to not using SLAPPs or other forms of judicial harassment to shut down public participation and critical advocacy.
- Communicate that they expect their business partners not to bring SLAPPs with the intention of silencing critics, continuously monitor their use and act consistently on their findings.
- Insurance (and other companies) should commit not to finance SLAPP litigation.
- Law firms should undertake rigorous due diligence to ensure that the cases they take on are not SLAPPs and refrain from representing companies in SLAPP suits against human rights defenders.

Bar Associations should

- Update ethics codes to ensure that SLAPPs are a sanctionable offence, stipulating that lawyers who use these abusive tactics face sanctions and penalties.

Legal Advocates & Civil Society should:

- Where specific anti-SLAPP provisions do not exist use existing legal and constitutional norms on freedom of expression, association, and peaceful assembly to defend against SLAPPs.

- Where anti-SLAPP provisions exist, familiarise themselves with their implications in cases where fundamental rights are impacted.
- Consider filing counter-lawsuits against companies to redress harm caused by SLAPPs and to organise communities and encourage them to assert their rights through legal action.
- Carry out training and awareness building for lawyers and judges to inform them about SLAPPs tactics.

4. Further Reading

From the Resource Centre

- SLAPPs [Case Profiles](#)
- SLAPPs [Database](#)
- SLAPPs [Portal](#)
- SLAPPs Briefings:
 - [SLAPPs in Latin America](#) (2022)
 - [SLAPPed but not Silenced: Defending human rights in the face of legal risks](#) (2021)
 - [Corporate Legal Accountability Annual Briefing on SLAPPs in Southeast Asia](#) (2020)
 - [SLAPPs in Southeast Asia: Cases and Recommendations](#) (2020)
 - [Silencing the Critics: How big polluters try to paralyse environmental and human rights advocacy through the courts](#) (2019)
- Commentary: [Anti-SLAPP legislation must outlaw judicial harassment of Human Rights Defenders](#) (2021)

From others

- CASE, [Governments' agreed stance on EU anti-SLAPP directive – a disappointing failure to support the adoption of robust safeguards for public watchdogs](#) (2023)
- Centre for Free Expression, [Global Anti-SLAPP Ratings: Assessing the strength of anti-SLAPP laws](#) (2022)
- Earth Rights International, [The Fossil Fuel Industry's Use of SLAPPs and Judicial Harassment in the United States](#) (2022)
- European Economic and Social Committee's opinion: [Securing Media Freedom and Diversity in Europe](#) underlying the necessity of a legal ban on SLAPPs (2021)
- Greenpeace [report on SLAPPs with recommendations on anti-SLAPP measures](#) (2020)
- [Greenpeace](#) and over 100 NGOs' policy paper: [Ending Gag Lawsuits in Europe \(2020\)](#)
- The International Center for Not-for-Profit Law's report on [Protecting Activists from Abusive Litigation](#) (2020)

Anti-SLAPP Coalitions

- [Asina Loyiko](#): Campaign with resources and connection hub for activists confronted by SLAPPs
- [CASE](#): Coalition Against SLAPPs in Europe

- [On ne se taira pas](#) (We will not be silent): Collective working to end the use of gagging orders
- [Protect the Protest](#): Task force working to end the use of SLAPPs
- [UK Anti-SLAPP Coalition](#): Informal working group which researches, monitors and highlights SLAPPs and seeks to develop remedies for mitigation and redress