

# PROTECTING ACTIVISTS FROM ABUSIVE LITIGATION

## SLAPPs in the Global South and How to Respond

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### WHAT ARE SLAPPS?

“SLAPPs,” or “Strategic Lawsuits Against Public Participation,” are suits filed not to secure relief, but to use the risks and costs of litigation to defuse criticism and opposition and discourage the exercise of fundamental freedoms. SLAPPs impose heavy financial and psychological costs on their targets, who face drawn-out and expensive proceedings, exorbitant claims, and sometimes, the prospect of imprisonment. Some SLAPP targets stop engaging in critical speech to avoid liability, and SLAPPs often discourage others from engaging in activism. SLAPPs also hijack public institutions to serve repressive private ends.

SLAPPs have long been prevalent in the Global North, but SLAPPs are being filed in the Global South, as well. In *Protecting Activists from Abusive Litigation: SLAPPs in the Global South and How to Respond*, ICNL presents the first cross-regional survey of SLAPPs in the Global South, along with the first rigorous comparative analysis of anti-SLAPP policy responses undertaken in the Global North and the Global South.

Our survey shows that SLAPPs pose a serious threat to the exercise of fundamental freedoms in the Global South, particularly for activists, civil society organizations (CSOs), journalists, and community members who dare to criticize powerful entities.

### POLICY RESPONSES TO SLAPPS

However, our analysis also shows that there is a sizable body of experience regarding policies that can be implemented to effectively counter SLAPPs. To date, anti-SLAPP responses have been implemented in the Global North in more than thirty U.S. states, three Canadian provinces, and the Australian Capital Territory, while such responses have been implemented in the Global South in Thailand, the Philippines, and Indonesia. Analysis of these responses reveals several approaches that have been employed to manage SLAPPs, including enacting protections for public participation; creating expedited dismissal procedures for SLAPPs; permitting recovery of costs by SLAPP targets; imposing compensatory and punitive damages, and levying penalties and other strictures, on SLAPP filers; and reforming SLAPP causes of action to lessen the potential for abuse.

We offer eight recommendations for how further anti-SLAPP responses in the Global South should be designed.

### Summary of Recommendations

#### RECOMMENDATION ONE

Exhibit care in designing and advancing these responses.

#### RECOMMENDATION TWO

Focus initial anti-SLAPP efforts on bolstering protections for public participation.

#### RECOMMENDATION THREE

Reform defamation laws, especially laws regarding criminal defamation.

#### RECOMMENDATION FOUR

Implement expedited dismissal procedures, cost-shifting, and damages provisions in defamation cases.

#### RECOMMENDATION FIVE

For defamation claims filed for purposes of harassment, the court should have the authority to impose additional penalties on filers.

#### RECOMMENDATION SIX

Reforms should be accomplished by legislative act or presidential or prime ministerial decree.

#### RECOMMENDATION SEVEN

Studies should further assess the prevalence and nature of SLAPPs in Southern jurisdictions.

#### RECOMMENDATION EIGHT

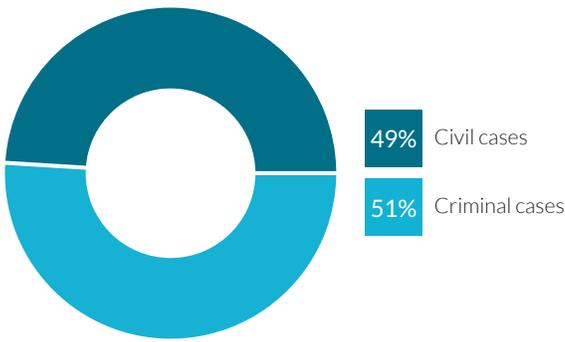
Authorities and activists should explore novel policy responses tailored to local contexts.

# SLAPPS BY THE NUMBERS

Our survey, which is far from comprehensive, has identified 82 reported SLAPPs filed in Thailand, India, the Philippines, and South Africa – the most fertile fields for Southern SLAPPs – as well as Indonesia, Malaysia, Armenia, Sierra Leone, and Honduras. Key features of SLAPPs in our sample include:

## Civil or Criminal Proceedings

Of the 81 cases clearly classifiable as civil or criminal:



## Causes of Action in SLAPPs

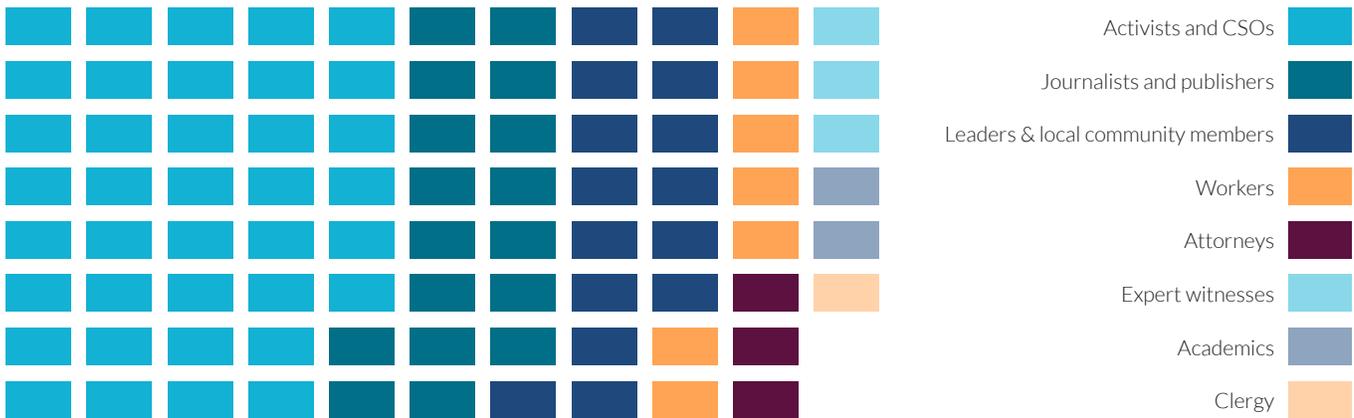
Of the 75 cases\* in which causes of action were reported:



\* Figures do not sum to 75 because some cases involved more than one cause of action.

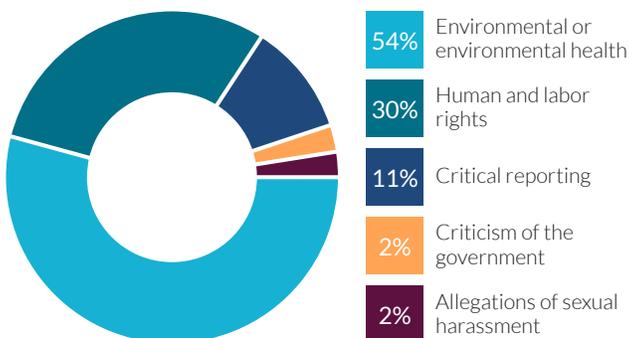
## Targets of SLAPPS

Note: Some cases targeted more than one category



## Advocacy Targeted by SLAPPS

Of 82 cases examined:



## Outcomes in SLAPPS

Of the 48 cases in which some disposition was reported

