

SLAPPS IN THE GLOBAL SOUTH

Reform Initiatives to Protect Activists from Abusive Litigation

Introduction

Strategic lawsuits against public participation, or SLAPPs, are private 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 are often filed against activists, civil society organizations (CSOs), journalists, and community members by powerful companies and businesspersons to prevent citizens from coming together, engaging in protest, and making their voices heard.

SLAPPs have long been prevalent in the Global North, but SLAPPs are also being used to silence activism and undermine civil society in the Global South. In a 2020 report, [*Protecting Activists from Abusive Litigation: SLAPPs in the Global South and How to Respond*](#), ICNL reviewed SLAPPs filed in the Global South and anti-SLAPP policy responses implemented in the North and South alike, and offered recommendations on how further anti-SLAPP responses in the Global South could be designed. Our report found that SLAPPs pose a serious threat to the exercise of fundamental freedoms – including freedoms of expression, association, and assembly – in the Global South.

In late 2020, through the [Lifeline Embattled CSO Assistance Fund](#), ICNL invited project proposals aimed at protecting civil society in the Global South from threats posed by SLAPPs. ICNL selected three partners – in Colombia, the Philippines, and Indonesia – to implement projects aimed at pushing back against SLAPPs.

Project Activities and Impacts

All three partners were able to accomplish meaningful change through their projects, including raising public awareness of SLAPPs and providing legal support to civil society representatives targeted with suits due to their exercise of civic freedoms. Below we highlight the policy impacts of partners' project activities.

In **Colombia**, El Veinte put together a detailed policy proposal for anti-SLAPP reforms, based on research and a series of public and private roundtables with lawyers,

journalists, government officials, civil society representatives, and members of the public in Colombia. An exploratory meeting with a Colombian Senator sparked his interest in advancing these reforms. Drawing on El Veinte's proposal, the Senator introduced legislation in Congress that would permit early dismissal of suits filed to censor discussion on matters of public interest, impose fines on the filing parties in these cases, and restrict forum-shopping aimed at imposing additional burdens on SLAPP targets. The legislation has now been approved in its first committee reading in the Senate and will pass to a second plenary reading, with two favorable readings required in each house of Congress before the bill may go to the president for signature.

In **the Philippines**, the National Union of Peoples' Lawyers (NUPL) worked to deploy the SLAPP concept to address baseless lawsuits filed by state actors, such as criminal prosecutions arising out of the recently enacted Anti-Terror Law. NUPL developed a policy paper with proposals for filling gaps in anti-SLAPP mechanisms in the Philippines, which currently address only SLAPPs filed in relation to environmental matters. The paper was submitted to the National Human Rights Commission and will serve as the basis for further advocacy. Already, NUPL reports that as a result of its convenings and discussions, a 2019 draft anti-SLAPP bill introduced in the House – which would have significantly expanded anti-SLAPP protections to extend to any suit, criminal or civil, filed for purposes of harassment and arising out of the exercise of civic freedoms – has been taken up again for consideration by relevant elected officials, who will redraft and re-file the bill in the upcoming session of Congress.

And in **Indonesia**, the Indonesian Center for Environmental Law (ICEL) conducted interviews and roundtables with CSOs, law enforcement officials, and judicial officers to develop guidance for government officials and public interest lawyers on the appropriate handling of SLAPPs and effective anti-SLAPP strategies. Drawing on these resources, ICEL furnished detailed inputs into the development of several domestic norms regulating the handling of SLAPPs, including guidelines and regulations being developed by the Supreme Court, Attorney General's Office, and the National Human Rights Commission. ICEL's inputs addressed a range of technical and policy issues, particularly highlighting the importance of early action by judges and prosecutors to secure the dismissal of SLAPPs. While these norms are still under development, ICEL's inputs appear likely to advance the rights-protecting treatment of SLAPPs in Indonesia.

The Path Forward

These initiatives demonstrate the interest among policymakers in developing legal norms to prevent SLAPPs from being deployed to stifle civic freedoms, and the availability of viable regulatory options for mitigating the threat posed by SLAPPs. Through support for partners' advocacy initiatives and continued cross-border learning, we can make further progress in protecting activists from abusive litigation.