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# **STRATEGIC LAW SUITS AGAINST PUBLIC PARTICIPATION**

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## **Abstract**

In recent years, there's been a noticeable increase in frivolous lawsuits aimed at silencing dissenting voices and marginalized groups, including women who report violence. These legal tactics undermine democracy, restrict open discussion on critical issues, and stifle freedom of speech. In Western countries, anti-SLAPP (Strategic Lawsuits Against Public Participation) legislation has been introduced to combat these baseless lawsuits. In India, anti-SLAPP laws are still in the early stages, requiring further discussion to prevent the legal system from being exploited by the powerful. The debate over the impartiality of the law needs to be revisited to ensure that justice is truly achieved.

## **Introduction**

Legal actions conducted by people or organizations to stifle, threaten, or punish others for exercising their right to free speech—especially when it comes to subjects of public interest—are known as SLAPP (Strategic Lawsuit Against Public Participation) proceedings. These lawsuits frequently have little basis, are frivolous, and are intended to deplete the defendant's time.

SLAPP suits are becoming a bigger problem in today's society as influential people and groups try to silence dissident voices and limit public discourse. To silence activists, critics, and whistleblowers who dared to speak out against injustice, corruption, or environmental destruction, these lawsuits are frequently used as a form of intimidation. By understanding the nature and implications of SLAPP suits, we can better protect the fundamental right to free speech and ensure that public participation in democratic discourse remains vibrant and unencumbered.

## Origin

SLAPP (Strategic Lawsuit Against Public Participation) suits originated in the United States in the 1980s, specifically in the context of environmental activism and public opposition to development projects.

Professors George W. Pring and Penelope Canan first used the term "SLAPP" in their 1996 book "SLAPPs: Getting Sued for Speaking Out," which examined the increase in these lawsuits.

The first recognized SLAPP suit was filed in 1983 by a developer, *Marek v. Chesny*<sup>1</sup>, against a group of citizens who opposed a development project in Lake Tahoe, California. The lawsuit claimed that the citizens' public statements and petitions constituted defamation and interference with business relations.

Since then, SLAPP suits have spread to other countries, including Canada, Australia, and the United Kingdom, and have been used to silence critics and opponents in various contexts, including:

- Environmental activism
- Consumer advocacy
- Labor disputes
- Political dissent

## Concept

A SLAPP (Strategic Lawsuit Against Public Participation) suit is a legal action filed by a party, typically a corporation, government entity, or wealthy individual, against an individual or organization that speaks out against them on a matter of public interest. The goal of a SLAPP suit is not to win in court, but to:

- Silence criticism and dissent
- Intimidate others from speaking out
- Drain the resources of the defendant
- Chill public debate and participation

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<sup>1</sup> *Marek v. Chesny*, 473 U.S. 1 (1985)

Characteristics of SLAPP suits:

- Frivolous or meritless claims
- Disproportionate damages or penalties
- Abuse of the legal process
- Intimidation and harassment tactics
- Targeting of individuals or organizations with limited resources

Types of SLAPP suits:

- Defamation suits (libel, slander)
- Business disparagement claims
- Interference with business relations
- Conspiracy or nuisance claims
- Copyright or trademark infringement suits

Effects of SLAPP suits:

- Chilling effect on free speech and public participation
- Financial burden on defendants
- Emotional distress and intimidation
- Diversion of resources from public interest activities
- Undermining of democratic discourse and accountability

### **SLAPP suits in India**

In India, the concept of SLAPP is not recognized by the law. Rather, currently the law is being used as a tool for repression against social movements, social activists and survivors of crime against women. The state in India even earlier, has used SLAPP against the students and the human rights activists where journalists, lawyers, poets, academicians and others who raised their voice against the government policies. Despite the fact that the Constitution of India provides for right to remedies in cases of the violation of fundamental rights under Article 32 and 226, yet, no immunity is provided to those who seek to assert their constitutional rights in many situations. The legal or the judicial landscape has failed to protect the whistle blowers as they are in danger of being abused by the rich and resourceful. Though the rights to public participation have been recognized as human rights and the citizens involvement in governance is a hallmark of democracy, yet the fact that SLAPPs are contradiction to these fundamental principles is not recognized by the state.

The law in India is still in rudimentary phase. Order 7 Rule 11 of the Civil Procedure Code deals with the rejection of the plaint in case it fails to disclose any cause of action. Section 250 Criminal Procedure Code allows the Magistrate to order the complainant to pay monetary compensation to the accused in case, the accused persons are acquitted.

The Supreme Court in 2010 outlined the Maintainability of Public Interest Litigation Rules that made it mandatory for petitioners to disclose their credentials and motives. The purpose is to prevent frivolous litigation that clogs the judicial process. The courts also impose heavy penalties on the petitioners who file frivolous litigations. Therefore, the purpose of enacting such regulation in India is not to support the vulnerable party in the litigation, rather it is to prevent the people from approaching the courts.

### **Calls for Anti-SLAPP Legislation**

Given the growing recognition of SLAPPs in India, there have been calls from legal experts, activists, and civil society organizations for specific anti-SLAPP legislation. These advocates suggest that anti-SLAPP laws would protect the rights of individuals and groups to engage in public discourse without fear of retribution through the legal system. They also argue that such laws would enhance accountability and transparency, fostering a healthier democratic environment.

### **Challenges and Future Prospects**

Despite these calls, the introduction of anti-SLAPP legislation in India remains challenging. The diversity of India's legal system, the complexity of existing laws, and the powerful interests that could be affected by anti-SLAPP protections all contribute to the difficulty in passing such legislation. Nonetheless, continued advocacy and public pressure may lead to greater consideration of anti-SLAPP laws in India, to protect freedom of speech and encourage public participation without the threat of strategic lawsuits.

### **Conclusion**

SLAPP suits are a growing concern in today's society, where powerful individuals and organizations seek to silence and intimidate critics, activists, and whistleblowers who dare to speak out against them. These lawsuits are often meritless, frivolous, and aimed at draining the resources and energy of the defendant.

SLAPP suits have a chilling effect on free speech and public participation, undermining the fundamental right to express opinions and engage in public debate. They can also divert resources away from important public interest activities and create a culture of fear and self-censorship.

To combat SLAPP suits, it is essential to:

1. Raise awareness about the issue
2. Support anti-SLAPP legislation and legal protections
3. Encourage judges to dismiss meritless cases promptly
4. Provide resources and support to defendants facing SLAPP suits
5. Promote a culture of transparency, accountability, and open debate

By working together, we can protect the right to free speech and public participation, and ensure that SLAPP suits do not silence the voices that need to be heard.

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