

FACTSHEET: STRATEGIC LAWSUIT AGAINST PUBLIC PARTICIPATION in Cambodia January 2023 - December 2023

Snapshot: This factsheet examines the use of SLAPPs in the Kingdom of Cambodia (“Cambodia”) between January 2023 and December 2023. SLAPPs or “strategic lawsuits against public participation” (“SLAPP”) were used 39 times in 2023. The regular use of SLAPPs by the Royal Government of Cambodia (“RGC”) and third parties stifles the right to freedom of expression and discourages citizen engagement. The damaging impact of SLAPPs in Cambodia can be seen through the case studies highlighted below.

The data captured in this factsheet was recorded by the Fundamental Freedoms Monitoring Project (“FFMP”), a joint initiative of CCHR, ADHOC, and the Solidarity Center.

What is SLAPP?

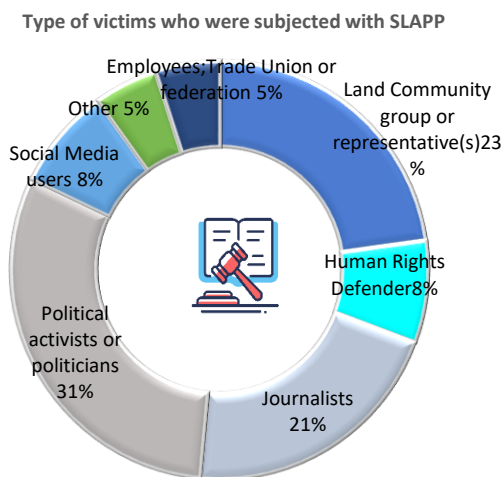
Strategic = Something done, intentionally and tactically, to achieve a specific goal
Lawsuit = A civil or criminal dispute brought to court of law
Against = In opposition to
Public = The people as a whole
Participation = Taking part in something

SLAPP is an intentional litigation used to discourage, intimidate, challenge, disrupt, or financially drain a defendant, silencing their opposition, criticism, or dissent. Traditionally, SLAPPs are civil lawsuits brought by third parties. However, in Cambodia, SLAPPs are more frequently brought by the RGC or the judiciary, in the form of criminal sanctions, such as summons by a Court for questioning or the imposition of criminal charges.

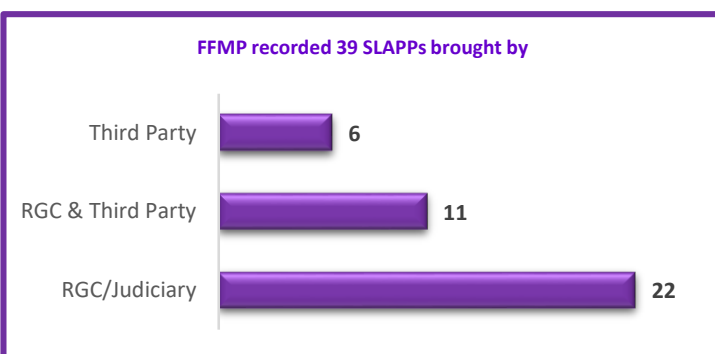
The Purpose of SLAPPs

SLAPPs specifically target outspoken members of the community who exercise their freedom of expression. SLAPPs are used by powerful entities like the government, wealthy individuals, or private entities to silence criticism and discourage citizen engagement. SLAPPs stifle citizen engagement through threats of incarceration and pose large financial burdens because individuals are subjected to legal costs and large fines. SLAPPs are used as an intimidation tactic to scare individuals, civil society actors, community leaders, journalists, whistleblowers, and human rights defenders into silence.

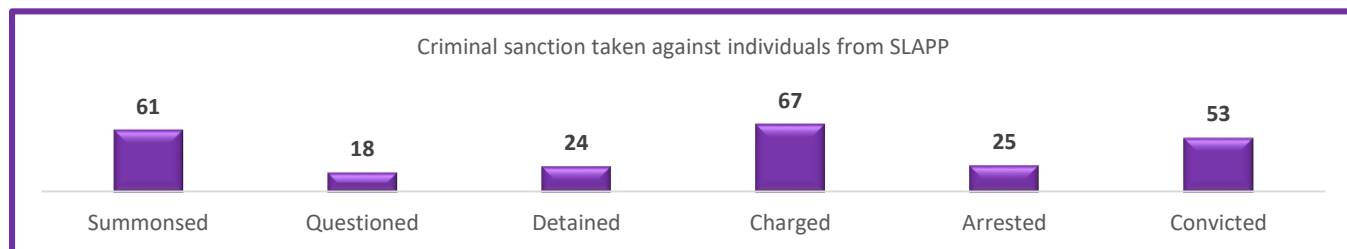
SLAPPs in Cambodia



In 2023, the FFMP recorded 39 suspected¹ SLAPPs used against 127 individuals of 7 different types of victims. Political activists or opposition politicians, journalists, and land community members were the most frequently targeted by SLAPPs. 31% of cases (52 persons) of political activists or politicians received lawsuits for posting/sharing their opinions on the 2023 general election. Furthermore, 21% were instances of complaints against journalists (9 people) after reporting or conducting a story about corruption or sensitive issues.



SLAPPs were brought during each month of 2023. Notably, SLAPPs were used in 10 cases during the national election in July 2023, the month in which most cases took place. However, most of these were brought by the RGC or the judiciary² and frequently targeted multiple individuals.



The FFMP identified 127 individuals who received SLAPPs in the form of criminal sanctions, 61 of which involved being summoned to appear at a police station or court to clarify their cases. According to the FFMP, 67 people have been charged, with the vast majority of them being political activists, politicians of opposition parties, or journalists.³

While criminal charges were utilized frequently, the number of SLAPPs that resulted in convictions over these 12 months remained steady than in the previous year. In 2022, SLAPPs were used 37 times against 79 individuals, compared to the 127 individuals targeted by SLAPPs in 2023; of these, 53 people were convicted.

¹ A suspected SLAPP is a case involving lawsuits against individuals legitimately exercising Fundamental Freedoms, likely to discourage, intimidate, challenge, disrupt their activism, or financially drain a defendant, silencing their opposition, criticism, or dissent.
² In some cases, SLAPP was brought by third parties, including employers, tycoons, or other powerful people.
³ The total number of criminal-sanctioned individuals could exceed the 127 total number of individuals tracked by the FFMP, with one of them receiving more than one sanction.

This illustrates a defining feature of SLAPPs – they are used primarily as a tool to discourage and prevent individuals from exercising fundamental freedoms. SLAPPs are intended to protect the government and powerful individuals from criticism or dissent. This leads to many individuals caught up in lengthy and expensive criminal trials, often remaining in pre-trial detention for many months or years even.

Case studies

SLAPPs do not apply to one specific public participant. The case studies below illustrate SLAPPs that have targeted the community, Union/Federation, journalists, and activists.



Photo Credit Cambolaneews

#1 Land Community groups or representatives

On 29 June 2023, a group of land activists from Koh Kong province were stopped by the police when they were on their way to the Ministry of Justice in Phnom Penh to deliver a petition calling for authorities to drop charges against 30 activists from five communities. Police blocked the four vans traveling to Phnom Penh and arrested 11 villagers, charging 10 of them with incitement under Articles 494 and 495 of the Cambodia Criminal Code. An activist was released on bail with restrictive conditions. The other nine activists (together with an activist's 18-month-old baby) remain in Koh Kong prison. On 15 August 2023, Koh Kong Provincial Court charged them with incitement to commit serious social disorder and malicious denunciation and sentenced them to one year in prison plus a total fine of 40 million riels to be paid to the plaintiff, tycoon Heng Huy. On 19 December 2023, The Appeal Court acquitted them of the incitement charge and quashed the corresponding prison sentence. It also upheld the conviction of defamation but reduced the amount of the compensation to 10 million riels. However, the Court ordered both defendants⁴ to pay a four million riel fine each.

#2 Employees, Trade Unions/Federations

On 03 August 2023, a summons was issued by the Kandal Provincial Court regarding complaints brought by a representative of Starlight Apparel Manufacturing Co., Ltd against 10 employees including one woman. The complaint was made under the favored use of "incitement to discrimination" and "defamation". The Court ordered the ten individuals to appear for clarifications on the morning of 21 August 2023. The complaint was made after a hundred workers came to protest and demand that the company respect working conditions and remove the head of administration from the company. However, the company administrator withdrew their complaint due to their negotiation.



#3 Political Activists/Politicians



Photo credit RFA

On 28 April 2023, the Phnom Penh Municipal Court detained the opposition leader and vice president of Cambodia's main opposition Candlelight Party, Mr. Thach Setha. Subsequently, he was questioned at the Phnom Penh Municipal Court as the second charge against him under Articles 494, 495 of the Criminal Code for "incitement". The questioning related to Sitha's speech when visiting Candlelight supporters in Japan in late 2022.

On 17 July 2023, 17 opposition members and activists were fined, had their names deleted from the electoral list, and banned from running for office by the Phnom Penh Municipal Election Committee (PEC). Notably that, they were charged with Article of the Amendment Law on Election after making a Facebook post criticizing the 2023 general election.



⁴ The pair was charged in connection with the gathering in front of The Ministry of Land Management, Urban Planning and Construction in 2019 to delivering petition seeking a suitable solution over a land conflict.

#4 Journalists

Mr. Phat Horn, journalist, and online publisher for KH Plus News was summoned to be questioned by Svay Rieng Provincial Police on 01 September 2023 after running a live video on 21 August 2023 on his Facebook page denouncing irregularities in the road construction process in Duong commune, Romeas Hek district and Sangkat Chrak Mtes, Krong Bavet. The complaint was made by Svay Rieng Provincial Administration which accused him of “public defamation” three days after an open letter from Svay Rieng Provincial Administration warning legal action against him was released. Regarding this case, on 26 Sep 2023, Horn was also summoned by Svay Rieng Provincial Court over a complaint under “public defamation” and was questioned by the court.



Photo credit Facebook



Photo Credit RFA

On 13 February 2023, Banteay Meanchey police arrested an online publisher from Khmer Cheay Den News, Mr. Oung Thabvang, and sent him to detention at Banteay Meanchey Prison for alleged public defamation and incitement to discriminate. This occurred following the publication of articles on the corruption of officials in Poipet municipal hall and provincial tax officials.⁵

Recommendations

The use of SLAPPs is widespread in Cambodia, with many lawsuits instigated by third parties as well as the RGC itself. SLAPPs undermine human rights and discourage citizens from engaging in society, leading to a chilling culture of self-censorship. To prevent SLAPPs, the RGC must:

- I. By 2026, enact a law prohibiting SLAPPs that contains penalties for individuals or entities who file SLAPPs.
- II. Review and amend the Cambodian Criminal Code, in particular the offenses of defamation and incitement, to comply with the international human rights legal framework, as ratified by Cambodia by 2026
- III. Provide regular training for police and judicial staff on how to recognize SLAPPs, refresh two times for each year
- IV. Create an enabling environment for human rights defenders, independent journalists, and activists, allowing them to carry out their legitimate and valuable work unhindered, following the accepted recommendation from the 3rd Universal Periodic Review

Further Reading

- ICNL, Protecting Activists From Abusive Litigation: SLAPPs in the global south and how to respond (2020) <<https://www.icnl.org/post/report/slapps-in-the-global-south-report>>.
- Business & Human Rights Resource Centre, Strategic Lawsuits Against Public Participation: Southeast Asia cases & recommendations for governments, businesses, & civil society (2020) <<https://media.business-humanrights.org/media/documents/files/documents/SLAPPs in SEA 2020 Final for website.pdf>>.
- Article 19, Global Expression Report 2018/19: Vexatious Litigation Against Public Participation (2019) <<https://www.article19.org/reader/global-expression-report-2018-19/global-analysis/global-analysis-2/civic-space/vexatious-litigation-against-public-participation/>>.

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⁵ Cambodia quarterly report 'Journalism situation in Cambodia' April-June 2023, <https://www.camboja.net/wp-content/uploads/2023/07/Quarterly-Report-Apr-Jun-2023-EN.pdf>.