NATURAL JUSTICE

ENVIRONMENTAL LAWYERS COLLECTIVE FOR AFRICA



SLAPP *suits* in African Jurisdictions

A toolkit for Activists, Lawyers and Campaigners in

Namibia




STAY
ALIVE

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FOREWORD



Strategic Lawsuits Against Public Participation (SLAPP suits) and other forms of judicial harassment designed to limit popular participation in democratic processes are on the rise, both globally and on the African continent. This toolkit assesses the strength of relevant legislative provisions related to SLAPP suits and judicial harassment in Namibia, focussing on specific SLAPP cases that have informed Namibia's jurisprudence in this novel area.

The toolkit provides key recommendations on how to confront SLAPP suits and provides information on organisations that specialise in representing victims of SLAPP suits, as well as key information on workshops, webinars, training manuals and other similar resources where SLAPP suits are considered.

The findings call for the development and adoption of specific anti-SLAPP legislation in Namibia as well as the development of a uniform and binding anti-SLAPP directive/resolution from the African Union (AU).

ACKNOWLEDGEMENTS

The toolkit was developed as a response to the increase in the use of **SLAPPs against lawyers, activists, journalists, and academics in Africa**. The toolkit and related work on SLAPP suits constitute a partnership between **SurgeAfrica** and **Natural Justice** and is intended to **empower campaigners** with the knowledge and tools they need to defend their rights and confidently participate in matters of public interest. As such, the toolkit aims to **strengthen the broader movement for environmental justice across Africa**. We wish to thank the following organisations who were integral to the drafting of this document:

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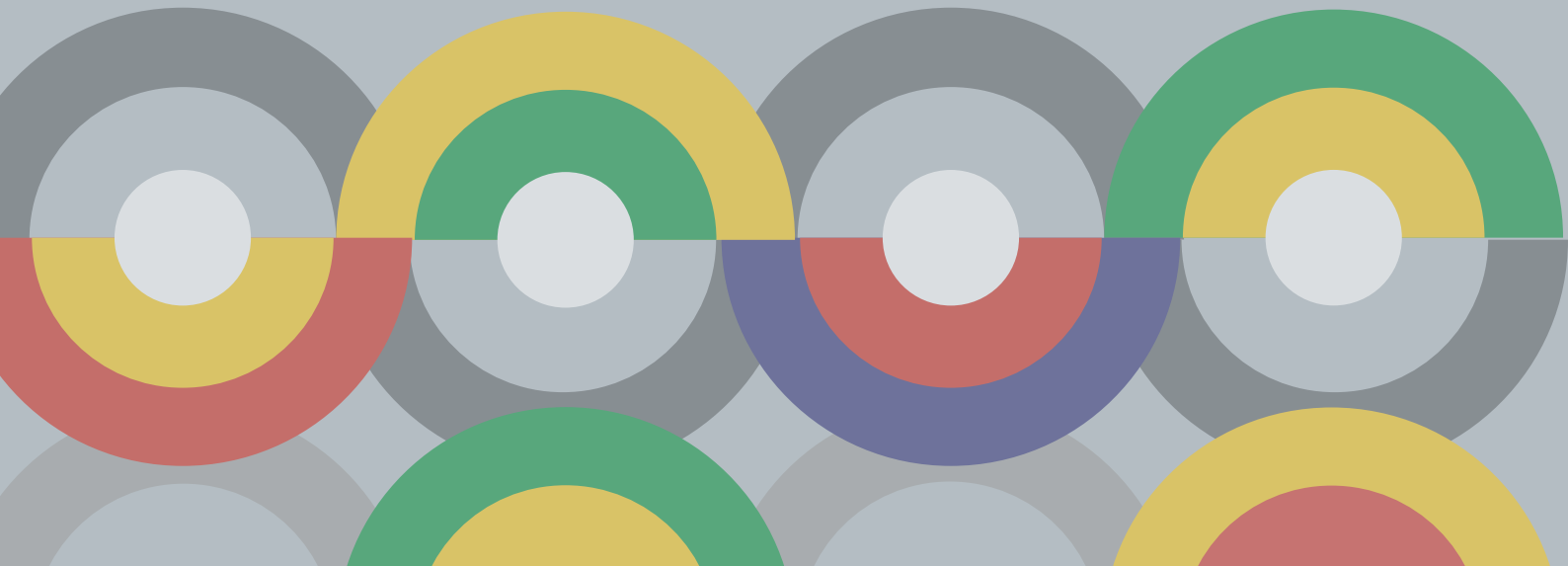
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DISCLAIMER

The toolkit (including any of its attachments) has been drafted for the sole use and benefit of promoting access to information on SLAPP suits and is intended for educational purposes only. The use of any information outlined in the toolkit is upon the reader's own risk. The reader assumes full responsibility and risk of any loss resulting from the use of the content contained therein.

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INTRODUCTION TO SLAPP SUITS
AND OTHER FORMS OF JUDICIAL HARASSMENT



1.1 Democracy's role in environmental governance

Democracy has been defined as 'a system which works towards the full inclusion and participation of citizens in critical decisions and policies of the state.'[1] Democracy should allow for both supportive and critical voices to be heard and should safeguard the rights of those who speak out against injustices, including environmental ones.

However, while laws and adjudicative processes are established to realise democracy and ensure justice, fairness and equality amongst all persons, there are instances where laws and judicial processes are used to subvert those very same principles which they are meant to realise and protect. This can be through unjust laws, haphazard enforcement of legal rules, or policies that favour the powerful. The harsh reality is that there are many instances where laws, lawmakers, and the judiciary, are 'weaponised' (often referred to as 'lawfare') to entrench the interests of political elites and large commercial entities at the cost of popular participation in democratic processes.

1.2 The Rise of the SLAPP suit

One way in which the law is being increasingly 'weaponised' in Africa is via Strategic Lawsuits Against Public Participation (SLAPP suits). SLAPP suits are expensive legal confrontations (usually in the form of defamation cases or interdicts) instigated by powerful parties, such as state actors or companies, against lawyers, campaigners, journalists, and academics who, either during their vocation or activism, threaten to expose potential injustices caused by powerful parties. They are pursued with the aim of intimidating and silencing critiques and represent an abuse of the intention of legal processes. In recent years, they have become one of the most significant risks facing activists and lawyers engaged in climate and human rights work in Africa.[2]

An authoritative legal definition of a SLAPP suit came from the Supreme Court of Canada in 2020 which described them as:

> ***"Lawsuits initiated against individuals or organisations that speak out or take a position on an issue of public interest … not as a direct tool to vindicate a bona fide claim, but as an indirect tool to limit the expression of others … and deter that party, or other potential interested parties, from participating in public affairs."[3]***

[1] Makaye, P. & Dube, B., 2014, 'Zimbabwe: the challenge of Democracy from below, 1980 to 2013', International Journal of Political Science and Development, 2(10), p. 229.

[2] Puentes Riano, A., Chowdhury, J., Masiye-Moyo, N. & Sansico, L., 2023, 'Evaluating impacts of strategic corporate accountability and human rights litigation', Consultoria en Justicia Climatica & Natural Justice, June, https://media.business-humanrights.org/media/documents/Evaluating_Impacts_of_Strategic_Corporate_Accountability_and_Human_Rights_Litigation.pdf Accessed 16 May 2026.

[3] Supreme Court of Canada, 2020, 1704604 Ontario Ltd v Pointes Protection Association 2020 SCC 22 449 DLR (4th) 1 (Pointes) para 2. https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/18458/index.do. Accessed 4 June 2026.

In general, SLAPP suits tend to have several common characteristics:

1. The lawsuit is filed against individuals or organisations speaking on matters of public interest and importance.
2. The lawsuit is filed disguised as a legitimate claim – often exaggerated or baseless - but with the intention to intimidate individuals and/or organisations.
3. The lawsuit is lengthy, drawn out and expensive and has the result of laying emotional, financial and labour burdens on the defendant.
4. The lawsuit is filed by parties that have significant financial and/or political power (e.g. a large corporation or the state) against opponents who have little to none (a community activist).
5. Litigants in SLAPP suits do not necessarily expect to win the case. The aim is rather to intimidate, discourage or exhaust critical speech or the actions of activists and to ultimately shut down any form of opposition.
6. SLAPP suits do not only exist as civil lawsuits and can also be used as criminal claims.[4]

The mere possibility of a SLAPP suit can have a 'chilling effect' on the ongoing activities of individuals and organisations. When faced with potentially significant legal fees opposing a SLAPP, let alone the emotional, reputational and labour burdens of doing so, individuals and organisations can engage in self-censorship. This may include withdrawing or failing to implement legal cases, taking an overly cautious approach to campaigning, or deciding not to campaign at all. This has the effect of supressing vital public discourse, which is precisely the aim of SLAPP suits and those entities which pursue them.[5]

An Example of a Typical SLAPP Suit



In 2021, a large South African property developer claimed damages of R197 million from a small nature organisation and its chairperson for alleged costs associated with building delays caused by their legitimate opposition to its development. The nature organisation and its chairperson had legally appealed a decision to allow the development to take place near important wetlands outside Johannesburg. While the developer typically did not pursue the case, its legal actions were clearly designed to intimidate and silence anyone opposed to the development.[6]

Given the 'chilling effect' that SLAPP suits can have on public participation in decision-making, jurisprudence to counter them is developing in various parts of the world. However, such jurisprudence needs to be cognizant of the fact that most rights can be limited by law. Few constitutions provide for rights that cannot be suspended, limited or restricted, including the rights to freedom of expression and/or assembly/association.

This means that during SLAPP suits, the party bringing them may claim that rights such as expression, assembly and association can be limited, particularly when balanced with other rights - such as a party's reputation and rights over property.

[4] For an example of a journalist facing criminal charges via a SLAPP suit see, Hawker, D., 2023, 'Slapp suit: Media freedom vindicated in Zuma private prosecution verdict', Daily Maverick. 7 June. https://www.dailymaverick.co.za/article/2023-06-07-slapp-suit-media-freedom-vindicated-in-zuma-private-prosecution-verdict/. Accessed 19 May 2026.

[5] Preston, J., 2014, 'Participation from the deep freeze: "Chilling" by SLAPP suits', Environmental and Planning Law Journal, 31(1).

[6] Yeld, J., 2025, 'Massive SLAPP suit against environmentalists withdrawn - Gauteng property developers were suing environmentalists for alleged costs from delays to their projects caused by objections', GroundUp, 24 Jan., https://groundup.org.za/article/massive-slapp-suit-against-environmentalists-withdrawn/. Accessed 19 May 2026.

The principles of legality, legitimacy and proportionality are, therefore, permissible limitations that are often abused by SLAPP suits under the guise of upholding the law or maintaining order. Thus, SLAPP lawsuits, to the extent that they criminalise expression or public participation in protests, are disproportionate and represent a perversion of the limitations of these freedoms undermining laws and public policies that rely on public participation.

Much depends on a country's specific legal environment. Some legal environments can be fertile ground for SLAPP suits, depending on how high legal costs are, the elasticity of laws targeting free speech (especially defamation), and rights over protest and association.[7]

1.3 Judicial Harassment Beyond SLAPP Suits

SLAPP suits are far from the only mechanism used to curtail or silence the public's right to freedom of expression, assembly and protest. In many African countries state sanctioned police surveillance and violence, and arbitrary arrest and detention, are used to close civic spaces and curtail public discourse. In most instances the use of such instruments are further examples of the law being 'weaponised' against public protest. Lastly, activists – especially environmental defenders - have been silenced by being murdered for their public advocacy.

Some legal scholars have argued, therefore, that the term SLAPP suit should be expanded 'to embrace within its ambit any legal proceedings which are brought to enervate critics, in order to accommodate the versatility of the threat faced by critics in different jurisdictions.'[8] This wider definition of SLAPP suits to include other forms of judicial harassment is adopted in this report.

In short, SLAPP suits and other forms of judicial harassment have three essential aims:

To Change the Focus of Dispute	SLAPP suits and other forms of judicial harassment deliberately shift focus away from the issue of wider public interest to a much narrower form of dispute.
To Change the Forum of Debate	SLAPP suits and judicial harassment oftentimes take debate outside of the public realm and into more elitist and inaccessible spaces, such as courtrooms.
To Change the Role of the Rights Defender	SLAPP suits and judicial harassment recast the role of rights defenders from being active participants in civil society to being defendants under threat.[9]

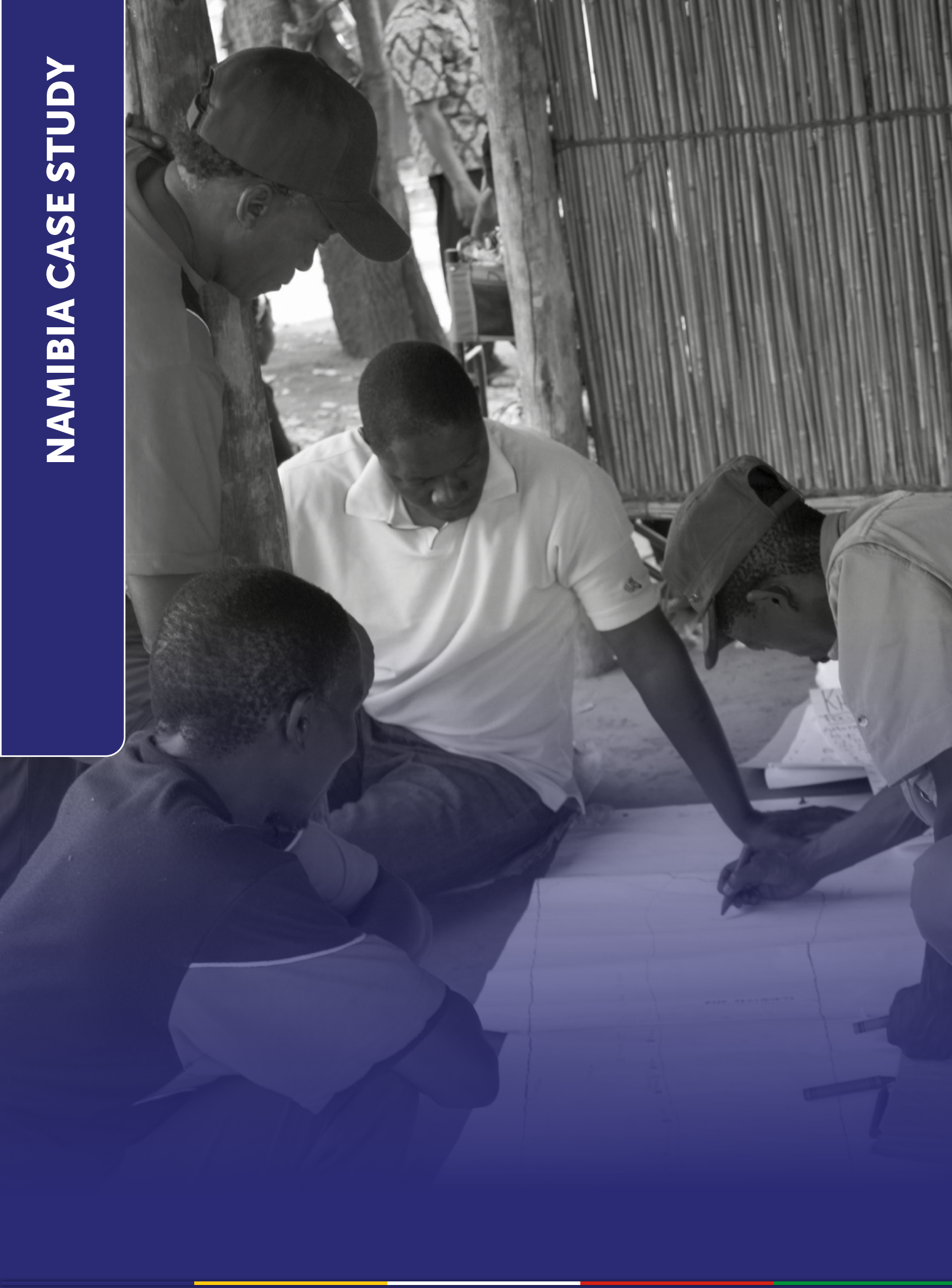
The following section explores key SLAPP cases that have informed Namibia's jurisprudence in this novel area.

[7] Bord-Barthet, J. Lobina, B. & Zabrocka, M. 2021. The Use of SLAPPs to Silence Journalists, NGOs and Civil Society. Policy Department for Citizens' Rights and Constitutional Affairs Directorate-General for Internal Policies. European Union.

[8] Emmamally, Z., 2022, 'Slapping Down SLAPP Suits in South Africa: The Need for Legislative Protection and Civil Society Action', South African Law Journal, 139(1), p. 3. The Coalition Against SLAPPS in Europe defines them as 'abusive lawsuits filed to shut down acts of public participation, including public interest journalism, peaceful protest or boycotts, advocacy, whistleblowing, academic comments, or simply speaking out against the abuse of power. SLAPPs target anyone who works to hold the powerful to account or engage in matters of public interest: so-called 'public watchdogs.' This broad category includes journalists, activists, rights defenders, whistleblowers, campaigning organisations, unions or trade associations, and academics.' See, 'SLAPPs: Increasingly Threatening Democracy in Europe', 2023, The Coalition Against SLAPPS in Europe, Aug., p. 7.

[9] Chamberlain, L., 2021, 'SLAPPing back: A new legal remedy for targets of corporate bullying', South African Journal of Human Rights, 37(3), pp. 411 - 412.

NAMIBIA CASE STUDY



2. Introduction

Namibia became an independent country in 1990 after a long struggle against the occupying South African apartheid regime. Since the passing of its progressive Constitution in 1990, Namibian legislators have repealed and replaced many regressive laws from the apartheid era. However, some existing statutes and policies continue to echo the country's colonial past.[10] The following analysis explores how existing legal frameworks are employed to quash dissent, intimidate journalists, and harass activists.

2.1 Namibian Laws Supporting Activism

The categorisation of legal instruments in this toolkit as laws that "support" or "censure" activism is intended as an analytical starting point rather than an absolute classification. Legal instruments may have both enabling and restrictive dimensions, and their effects on activism may vary depending on their substantive provisions, interpretation, implementation and the context in which they are invoked. Accordingly, the categorisation reflects the predominant or most significant effect of each instrument identified in the case studies, while recognising that the same legal framework may create opportunities for activism in some respects while constraining it in others.

Namibia is recognised for its progressive legislated approach to freedom of expression, particularly as enshrined in the Namibian Constitution. Article 21 of the Constitution guarantees the right to freedom of speech and expression, which includes the freedom to seek, receive, and impart information and ideas through any media. In addition, the Constitution guarantees the rights to assembly and association.

Freedom of speech and expression is a pivotal right that human rights activists in Namibia utilise to fight against injustice and unlawful government decisions. However, **Article 22 of the Namibian Constitution, makes provision for limiting the absolute enjoyment of fundamental rights and freedoms, including freedom of expression and association.**

To give effect to Article 21 of the Constitution, Namibia enacted several key statutes:

1. **The Namibian Broadcasting Act 9 of 1991** which regulates broadcast media.
2. **The Communications Act 8 of 2009** which covers electronic media and information exchange.
3. **Namibian Whistle Blower Protection Act, 2017.**
4. **The Access to Information Act 8 of 2022** which ensures public access to government-held information.

In addition, **Article 17(1)** of the Namibian Constitution grants all citizens the **right to participate in peaceful political activity intended to influence the composition and policies of government**, while **Article 95(k)** declares that government will promote policies aimed at encouraging **'the population through education and other activities and through their organisations to influence government policy by debating its decisions.'**[11]

[10] The Repeal of Obsolete Laws Acts of 2018 and 2022, collectively repealed 214 laws. See, Ferguson, J., 2024, 'Namibian Legislation and Human Rights Commitments: Legislative Ambition and State Capacity', CHRLP International Human Rights Internship Program Working Paper Series, 13(12), p. 17.

[11] Singh, A., Majama, K. & Montinat, J. 2020. The struggle for the realisation of the right to freedom of expression in Southern Africa. African Declaration on Internet Rights and Freedoms Coalition, p. 42, https://africaninternetrights.net/en/resource/struggle-realisation-right-freedom-expression-southern-africa. Accessed 2 June 2026.

It should be pointed out that despite three years having passed since the publication of the **Access to Information Act 8 of 2022** it is effectively inoperative because an Information Officer has not been appointed. As observers note in this case, **'honouring rights requires not merely de jure compliance, the existence of a law, but de facto operationalisation.'**[12]

2.2 Namibian Laws that Censure Activism

Despite these legal instruments, a report published in November 2020 identified four Namibian laws that threaten freedom of expression in Namibia. These are, the Protection of Information Act, 1982; the Communications Act, 2009; the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014; and the Research, Science and Technology Act, 2004.[13]

The Protection of Information Act, which dates from the apartheid era, criminalises the possession and dissemination of state information that is regarded as secret, thus potentially affecting freedom of expression and media freedom. In 2018, the Act was used to try to silence a media organisation from reporting on alleged corruption within the Namibian Central Intelligence Service. However, both the Namibian High and Supreme Courts found in favour of the media organisation with the High Court stating:

> ***Article 21(2) of the Constitution allows for reasonable limitations of the Article 21(1)(a) rights and freedoms. Any limitation that would lend itself to unlawful purposes could clearly not be considered as reasonable.***[14]

The Communication Act was passed in 2009 and allows for the interception of telecommunications. Several civil society organisations have expressed their concerns over the constitutionality of the law. For example, the Act includes no provisions protecting privacy nor does it include appropriate regulatory and oversight mechanisms. As Namibia has no comprehensive data privacy legislation, the Data Protection Bill of 2021 remains in draft form, these are significant oversights.[15]

Part 4 of the Prevention and Combating of Terrorist and Proliferation Activities Act raises concerns because of the broadness of the definitions used in part 1. For example, the Act defines 'terrorist activity' as:

> ***any act which is calculated or intended to intimidate, instil fear, force, coerce or induce any government, body, institution, the general public or any segment thereof, to do or abstain from doing any act, or to adopt or abandon a particular standpoint, or to act according to certain principles.***

[12] 'African Media Barometer - A Home-grown Analysis of the Media Landscape in Africa: Namibia 2026', 2026, NMT Media Foundation, p. 5.

[13] Singh, Majama & Montinat, 2020.

[14] Supreme Court of Namibia, 2018, Director General of the Namibia Central Intelligence Service and Another v Haufiku and Others (107 of 2018) NAHCMD 174 (18 June 2018).

[15] Menas, D., 2025, 'Calls for urgent finalisation of data-protection law after NSFAF data breach', The Namibian. 3 Oct. https://www.namibian.com.na/calls-for-urgent-finalisation-of-data-protection-law-after-nsfaf-data-breach/. Accessed 4 May 2026.

The broad scope of this definition leaves it open to interpretation, meaning that it could be used to the persecute rights defenders or journalists. As critics note,

> ***'the laxity in this wording is of such magnitude that it could be interpreted as applying to any protest or demonstration aimed at influencing government, any other body, or the public.'***[16]

Concerns have also been expressed about the **Namibian Whistle Blower Protection Act, 2017** that establishes a Whistleblower Office to investigate disclosures of improper conduct, and to investigate complaints of retaliation against persons making disclosures. The Platform to Protection Whistleblowers in Africa (PPLAA) notes that if a disclosure 'principally involves questioning the merits of government policy, including the policy of a public body', then the whistleblower may not be protected in Namibia.[17] Critics argue that,

> ***'the environment is not conducive to whistleblowing. Members of the public who expose wrongdoing are themselves exposed to great risks' because of a lack of 'political commitment towards transparency and accountability' in Namibia.***[18]

2.3 Litigation Risks and Practical Constraints on Environmental Activism

While SLAPPs have been increasingly documented as a mechanism for restricting environmental activism in a number of jurisdictions, the available evidence of formally recognised SLAPP cases in Namibia is limited. Accordingly, this case study adopts a broader approach, examining the legal and practical constraints faced by environmental activists and communities, including litigation risks, procedural requirements, adverse costs and other forms of pressure that may affect access to justice.

Okavango Community Silenced with Cost Order for Opposing ReconAfrica

In 2022, local communities in the Okavango River Basin, assisted by the Legal Assistance Centre, launched an urgent applicant seeking to obtain an interim interdict to stop ReconAfrica from continuing to drill for oil and gas on their communal lands. The case was heard by the High Court in May 2023 which dismissed the application and subsequently imposed costs of over N$520,757 against the Okavango community. The Women's Leadership Centre in Namibia stated that the ruling was 'a blatant attempt to silence rural communities in the Kavango.'[19]

[16] Hopwood, G., 2015, 'Rushed and Ill-Conceived: Namibia's Anti-Terrorism Law', Action - Access to Information Namibia. Briefing Paper, June, p. 7.

[17] Platform to Protection Whistleblowers in Africa: Namibia 2025, May, https://www.pplaaf.org/country/namibia.html. Accessed 17 May 2026.

[18] Coetzee, J., 2020, 'Speaking truth to power: Whistleblower challenges and options – a Namibian perspective', Journal of Namibian Studies. 27. pp. 90 & 98.

[19] Namibian NGOs call out flawed legal decision awarding costs against Kavango communities who appealed fracking licenses on communal lands. 2023. Heinrich Boll Stiftung. 16 Feb. https://za.boell.org/en/2023/02/20/namibian-ngos-call-out-flawed-legal-decision-awarding-costs-against-kavango-communities. Accessed 3 June 2026.

The case illustrates the financial and procedural risks that activists and local communities may encounter when seeking to challenge government-sanctioned corporate activities through the courts. Importantly, however, it should not necessarily be characterised as a SLAPP or as judicial harassment. The High Court's decision was based on the community's failure to properly exhaust the applicable administrative appeal process before approaching the court. The costs order therefore arose from the court's assessment of the procedural deficiencies in the application, rather than from an attempt by ReconAfrica to use litigation strategically to silence the community. Nevertheless, **the case demonstrates how procedural requirements and adverse costs orders can create significant barriers to communities seeking to challenge environmentally harmful activities through legal avenues.**

Namibia_Media_Holdings (Pty) Ltd Another v Lombard and Another SA23-2020

On 11 July 2022, the Namibian Supreme Court ruled in favour of Namibian Media Holdings and a former editor, overturning a High Court ruling that had ordered them to pay damages for defamation.

The case stemmed from a 2017 article in the Namibian Sun that claimed a farmer, Johan Lombaard, kept elephants in poor conditions. While the High Court ruled that the newspaper had failed to prove the truth of the claims, the Supreme Court found that the journalist had reasonably relied on credible sources, including the Minister of Environment, who had described the conditions the elephants were being housed in as 'horrific.'[20]

The Supreme Court's decision is significant for freedom of expression and media freedom in Namibia and illustrates the role of the courts in maintaining an enabling legal environment for activism and public-interest reporting. **The Court recognised the media's important democratic role in informing the public and cautioned against the risk that defamation claims could imperil this function.21** The decision therefore provides an important safeguard against the potential chilling effect of defamation proceedings on journalists and media organisations reporting on matters of public interest.

Activist Arrested for Opposing Chinese Mining Company

In January 2025, Uis community activist Jimmy Areseb was arrested following protests at the offices of the Dâure Daman Traditional Authority concerning allegations of irregularities surrounding lithium mining activities by Xinfeng, a Chinese mining company. Community members alleged that traditional authorities had accepted payments from Xinfeng in exchange for facilitating access to lithium deposits. Xinfeng denied that the payments constituted bribes, stating that its monthly contribution to the traditional authority was made as part of its corporate social responsibility activities.[22] The protests resulted in confrontations between community members and the police. Areseb and other community members subsequently faced criminal proceedings. According to the Namibian Broadcasting Corporation, Areseb was charged with, among other offences, contravening the Explosives Act, possession and supply of explosives, arson and violating his bail conditions.

[20] 'Newspaper wins libel case appeal', 2022, The Namibian, 11 July, https://www.namibian.com.na/newspaper-wins-libel-case-appeal/. Accessed 4 June 2026.

[21] Supreme Court of Namibia, 2022, Namibia Media Holdings (Pty) Ltd v Lombard and Another (SA 23 of 2020) [2022] NASC 21 (8 July 2022). https://namiblii.org/akn/na/judgment/nasc/2022/21/eng@2022-07-08. Accessed 4 June 2026.

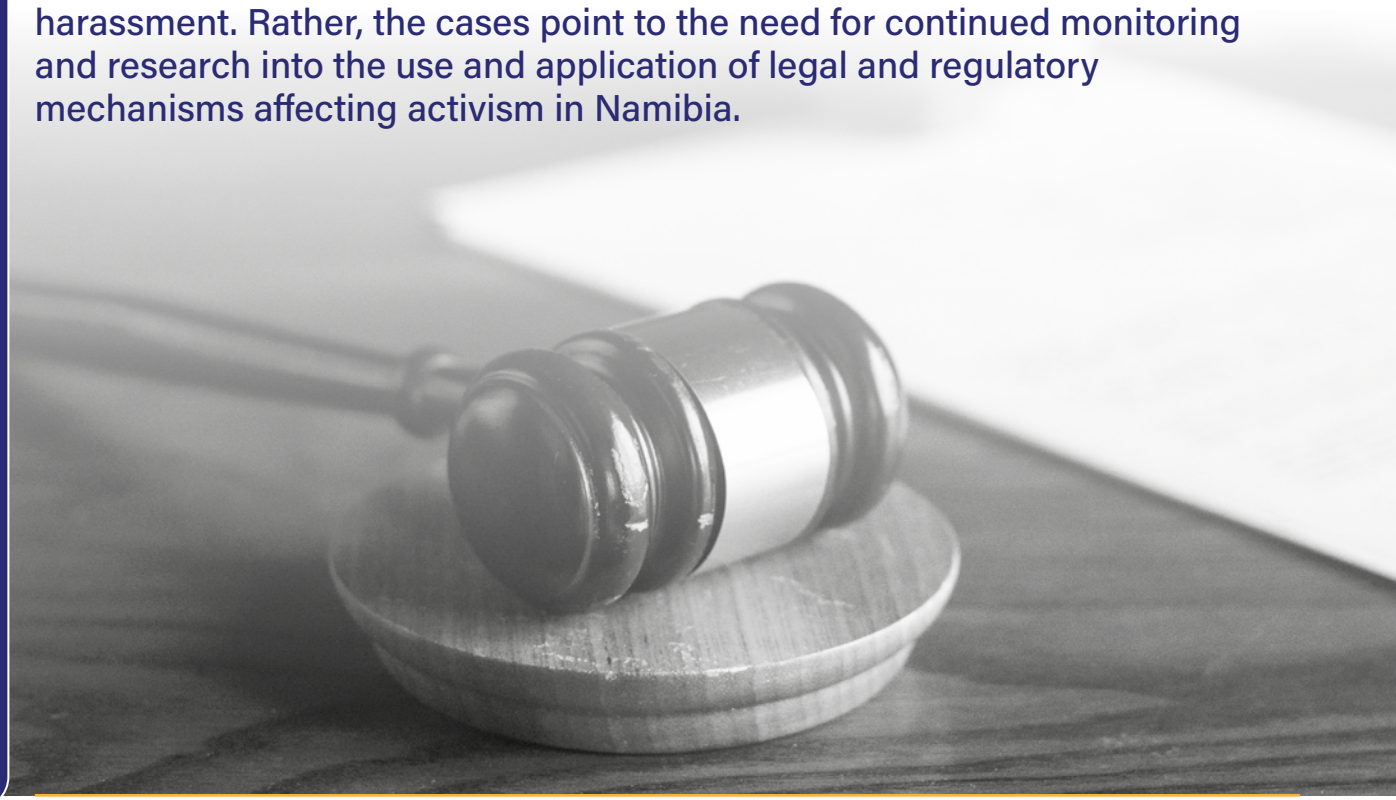
[22] Namibia: Lithium Mining company says monthly contribution to traditional authorities is part of its corporate social responsibility, not a bribe as alleged by community members. 2025. Business and Human Rights Centre. 8 Jan. https://www.business-humanrights.org/en/latest-news/namibia-lithium-mining-company-says-monthly-contribution-to-traditional-authorities-is-part-of-its-corporate-social-responsibility-not-a-bride-as-alleged-by-community-members/. Accessed 4 June 2026.

Separate proceedings were brought against other community members who had occupied the traditional authority offices, including charges relating to obstruction of police officers, obstruction of the administration of justice under the Riotous Assemblies Act and contravention of a court order.[23] The available reporting does not establish the outcome of these proceedings.

The case illustrates the complex legal risks that may arise when communities and activists use protest to challenge mining activities and decisions concerning access to natural resources. It should not, however, be characterised as a SLAPP or judicial harassment on the available evidence. **The fact of an arrest or criminal prosecution does not, in itself, establish that the proceedings were intended to suppress activism, nor does the available information establish whether the allegations against Areseb or the other protesters were ultimately proven.** Rather, the case highlights how protests concerning extractive activities may give rise to criminal and public-order proceedings, with potentially significant consequences for activists and community members. It therefore underscores the **importance of ensuring that the regulation of public protest and the enforcement of criminal laws are consistent with the rights to freedom of expression and peaceful assembly**, while recognising the legitimate role of law enforcement in responding to alleged criminal conduct.

2.4 Conclusion

The cases highlighted above illustrate the varied ways in which Namibia's legal environment can affect activism. While legal and regulatory frameworks may create significant constraints for activists and communities, judicial decisions can also provide important protection for freedom of expression and public-interest reporting. The limited number of cases identified, however, does not support a conclusion that Namibia has developed a discernible judicial trend in relation to SLAPPs or judicial harassment. Rather, the cases point to the need for continued monitoring and research into the use and application of legal and regulatory mechanisms affecting activism in Namibia.



[23] Business and Human Rights, "Namibia: Lithium Mining company says monthly contribution to traditional authorities is part of its corporate social responsibility, not a bribe as alleged by community members," avaliable at https://www.business-humanrights.org/it/latest-news/namibia-lithium-mining-company-says-monthly-contribution-to-traditional-authorities-is-part-of-its-corporate-social-responsibility-not-a-bride-as-alleged-by-community-members/ also see https://www.nbcnews.na/node/108976.

OPPOSING SLAPP SUITS IN AFRICA – WHAT CAN BE DONE?



3.1 International Anti-SLAPP Laws

To counter legal frameworks which facilitate SLAPP suits, legal safeguards such as anti-SLAPP statutes need to be in place. Anti-SLAPP jurisprudence is most advanced in the United States, where the first anti-SLAPP law was passed in 1992. To date, 38 American states have passed anti-SLAPP laws.[24]

The European Union passed an anti-SLAPP law in 2024.

> ***In March 2024, the European Union adopted a Directive to end 'abusive court proceedings against public participation….which are not brought to genuinely assert or exercise a right, but have as their main purpose the prevention, restriction or penalisation of public participation, frequently exploiting an imbalance of power between the parties.'[25] Importantly, the Directive allows for the early dismissal of cases and for costs and penalties to be imposed on 'a claimant who has brought abusive court proceedings against public participation.'[26] This directive is the first multinational and transnational anti-SLAPP law.***

3.2 African Anti-SLAPP Laws

While there are no specific anti-SLAPP laws in Africa, African states are signatories to various international legal instruments that may be applicable in the defence of an activist, lawyer, journalist or academic facing a SLAPP suit or another form of judicial harassment.



[24] Keating, D., Knowles-Gardner, H. & Greenberg, D. 2025. Anti-SLAPP Statutes: 2025 Report Card. Institute for Free Speech. 25 Aug. https://www.ifs.org/anti-slapp-report/. Accessed 3 June 2026.

[25] European Union. 2024. Directive (EU) 2024/1069. Article 4.3. Also see, van Houtert, B., 2025, 'The Anti-SLAPP Directive as a Roadmap for SLAPP Targets and the Obstacles Along the Way', Maastricht University, 25 Feb., https://www.maastrichtuniversity.nl/blog/2025/02/anti-slapp-directive-roadmap-slapp-targets-and-obstacles-along-way. Accessed 24 June 2026.

[26] European Union. 2024. Directive (EU) 2024/1069. Articles 11, 14 & 15.

3.3 The Universal Declaration of Human Rights

The Universal Declaration of Human Rights provides, in Articles 19, 20 and 21, that everyone has the right to freedom of expression, freedom of peaceful assembly and association.[27] These rights are important participatory tools which are entrenched in international and regional legal frameworks, including the International Covenant on Civil and Political Rights (ICCPR), and the African Charter on Human and Peoples' Rights (Banjul Charter).[28]

Three specific rights are important for those facing SLAPP suits:

01

Right to freedom of association

Article 22 of the ICCPR and Article 10 of the African Charter entrench the right to freedom of association at international and regional scales. This right ensures that every individual is free to organise and to form and participate in groups, which enables effective participation in civil and political society.





02

Right to peaceful assembly

Article 21 of the ICCPR and Article 11 of the African Charter recognise and entrench the right to peaceful assembly with other like-minded persons, highlighting the importance of protest activities. This right particularly affords individuals the opportunity to express their opinions on matters of collective and public interest in a united manner. It is the conduit from which the pillars of advocacy are built, thereby ensuring that citizens can mould their respective societies in alignment with their morals, values and ideals.

03

Freedom of expression

Freedom of expression is an integral part of public participation provided for in Article 19 of the ICCPR and Article 9 of the African Charter. Freedom of expression includes the right to, seek, receive and express ideas and opinions within the law. Article 19 of the ICCPR goes further to emphasise that this freedom should be enjoyed by all without frontiers.



The 2019 Declaration of Principles of Freedom of Expression and Access to Information in Africa also affirms the rights to freedom of expression and access to information.

[27] Universal Declaration of Human Rights. 1948. United Nations. https://www.un.org/en/about-us/universal-declaration-of-human-rights. Accessed 3 June 2026.

[28] International Covenant on Civil and Political Rights. 1966. United Nations. https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights & African Charter on Human and Peoples' Rights. 1981. African Union. https://au.int/en/treaties/african-charter-human-and-peoples-rights Accessed 3 June 2026.

3.4 African Legal Instruments

While African regional legal instruments specifically addressing SLAPP suits remain underdeveloped, protections can be inferred from broader human rights frameworks and judicial precedents. The African Commission on Human and Peoples' Rights (also known as the Banjul Charter) has passed a number of relevant resolutions:

> ***Resolution 119 (2007)*** *urges member states 'to take all the necessary measures to ensure to all human rights defenders an environment conducive to carrying out their activities without fear of any acts of violence, threats, reprisals, discrimination, pressure and any arbitrary acts by State or non-State actors as a result of their human rights activities.'*[29]

> ***Resolution 196 (2011)*** *notes that the Commission is 'deeply concerned about the difficult environment in which those who cooperate with African human rights system including human rights defenders in Africa are working in Africa which is characterized in several countries by the persistence of arbitrary arrests and detentions, acts of harassment including judicial harassment, threats and other forms of intimidation, of summary and extra-judicial executions and even acts of torture as a result of their activities.' It calls on states to 'to recognize the role of human rights defenders in the promotion and protection of rights and freedoms as recognised by the African Charter and other regional and international instruments.....to release the human rights defenders who are arbitrarily detained and to put an end to the judicial harassment and other acts of intimidation against human rights defenders.'*[30]

> ***Resolution 376 (2017)*** *essentially repeats the text of Resolution 196 noting once again that the Commission is 'deeply concerned about the situation of human rights defenders in Africa.'*

In September 2025, the Commission noted its concern with the 'growing use of strategic lawsuits against public participation.....which often have been used to curtail the work of civil society, human rights defenders and independent journalists, to drain their resources, stigmatize and criminalize them.' The Commission called on member states to 'enact anti-SLAPP legislation, authorizing early dismissal of such lawsuits and protecting civil society actors against legal harassment.'[31] Article 66 of the AU's African Charter on Human and Peoples' Rights allows for supplementary protocols, thus creating a pathway for future instruments to be added which explicitly address SLAPP suits.

[29] African Commission on Human and Peoples' Rights, 2007, Resolution on the Situation of Human Rights Defenders in Africa - ACHPR/Res.119(XXXXII)07, https://achpr.au.int/en/adopted-resolutions/119-resolution-situation-human-rights-defenders-africa-achprres119.

[30] African Commission on Human and Peoples' Rights, 2011, Resolution on Human Rights Defenders in Africa - ACHPR/Res.196(L)2011, https://achpr.au.int/en/adopted-resolutions/196-resolution-human-rights-defenders-africa-achprres196l2011

[31] African Union. 2025. African Commission on Human and Peoples' Rights. Joint Declaration on Protecting the rights to freedom of peaceful assembly and of association from criminalization amid intensified existential threats. 17 Sept. https://achpr.au.int/en/news/press-releases/2025-10-29/joint-declaration-protecting-rights-freedom-peaceful-assembly. Accessed 19 May 2026.

Particularly relevant to environmental defenders and SLAPP suits was resolution 657 from March 2026, which reaffirmed 'the inseparable link between access to information, environmental rights, and the broader framework of human rights protections enshrined in the African Charter on Human and Peoples' Rights.' It directly addresses SLAPP suits calling on member states to:

> ***Take appropriate, legislative, administrative and judicial measures to deter and address vexatious, harassing or abusive resort to litigation that unduly restrict and chill public participation in environmental matters, including, inter alia providing targeted procedural protections such as expedited handling of cases, facilitating timely access to legal aid and other appropriate assistance to victims.***[32]

In June 2026, the Commission passed resolution 663 which speaks directly to ongoing challenges, particularly as they relate to judicial processes. It notes that the Commission is:

> ***Concerned by the shrinking of civic space, notably through the use of surveillance, both in the digital domain and in other spheres, as well as the trend towards democratic repression, including transnational repression, factors which undermine the enabling environment for the work of human and peoples' rights defenders in Africa, particularly in the run-up to presidential elections;***
>
> ***Also concerned by the resurgence of cases of abuse of judicial process imposed on human and peoples' rights defenders, characterised by the proliferation of proceedings brought against them or the organisations which employ them, including by non-State actors, as well as by the imposition of excessively high bail amounts, which are likely to unduly restrict the exercise of their activities;***
>
> ***Concerned further by the persistence of violations targeting human and peoples' rights defenders, in particular arbitrary arrests and detentions, acts of torture, enforced disappearance and murder, as well as the excessive and prolonged use of pre-trial detention, including in conditions characterised by restrictions on their rights of access to legal representation, appropriate healthcare and family visits;***
>
> ***Concerned, furthermore, by the violations of the freedoms of association and peaceful assembly of human and peoples' rights defenders, in particular through the banning of peaceful demonstrations, arrests during such gatherings, and the suspension or dissolution of civil society organisations outside any due legal process.'***

[32] African Commission on Human and People's Rights, 2026, Resolution on Access to Information and the Right to a Healthy Environment - ACHPR/Res.657(LXXXVI).

Among several demands, it called on states to 'refrain from any form of abuse of judicial process imposed on human and peoples' rights defenders, including by non-State actors'.[33]

In combatting SLAPP lawsuits, lawyers must, therefore, be innovative in their use of international rights protections, especially where there is a significant lacuna in the law with regards to anti-SLAPP legislation within a country. Some legal progress is being made towards combatting SLAPPs in Africa. For example, as has been noted, in 2022 the Constitutional Court in South Africa recognised SLAPPs 'as an abuse of process' noting that SLAPPs may be raised as a provisional defence.[34] Despite this, there is clearly a pressing need for the development of national anti-SLAPP legislation in African legal jurisdictions because as legal scholars note, 'anti-SLAPP laws act as a filter for legal proceedings by restraining abusive cases'.[35]



[33] African Commission on Human and Peoples' Rights, 2026, Resolution on the Situation of Human and Peoples' Rights Defenders in Africa ACHPR/Res.663(LXXXVII) 2026, https://achpr.au.int/en/adopted-resolutions/663-achprres663lxxxvii-2026.

[34] Centre for Environmental Rights. 2022. South African Constitutional Court provides new protection for activists against SLAPP suits. 15 Nov. https://cer.org.za/news/south-african-constitutional-court-provides-new-protection-for-activists-against-slapp-suits. Accessed 21 May 2026.

[35] Emmamally, Z., 2022, 'Slapping Down SLAPP Suits in South Africa: The Need for Legislative Protection and Civil Society Action', South African Law Journal, 139(1), p. 18.

3.5 Model Anti-SLAPP Law for Africa

As an essential starting point the African Union needs to develop and fully implement a dedicated and binding anti-SLAPP protocol for all members states. This should be accompanied by country-specific anti-SLAPP laws. While being fully cognizant that bespoke and innovative anti-SLAPP legislation is required in all African jurisdictions because there is no one-size-fits-all solution, a draft model anti-SLAPP statute for South Africa has recently been drawn up that includes four essential features which are universally applicable:[36]

1. Definition of SLAPP suits

The ability for judges to recognise and act against SLAPP suits is essential, thus the Model law describes them as unfounded legal proceedings which are threatened or brought against persons with the chief goal of discouraging, silencing, harassing, detracting, under resourcing, and disciplining individuals or a collective of individuals from participating openly in matters of public interest. These matters could include activities such as protest actions, campaigns building, networking publicly, criticism, academic research, journalism, or whistleblowing.

2. Test for Strategic Litigation Against Public Participation

The Anti-SLAPP Model Law also provides a structured test to determine whether a lawsuit qualifies as a Strategic Lawsuit Against Public Participation. This test ensures that courts can quickly identify and dismiss SLAPP cases before they impose undue burdens on defendants.

3. Early Dismissal Mechanism

It provides a legal process for defendants to request the swift dismissal of SLAPP suits, aimed to reduce the financial and emotional strain on those targeted.

4. Protective Measures

The law includes provisions to safeguard defendants from retaliatory actions, such as awarding costs and damages to those wrongfully sued (Courts could automatically award the full costs of participating in a suit to a defendant upon dismissal), thereby deterring potential SLAPP filers.

Scholars argue strongly in support of model laws because of the wider regional impact they can have on shaping 'judicial imagination to influence future decisions.'[37]

[36] Bruce, L., 2024, 'Model law for protection against SLAPP suits', Centre for Applied Legal Studies- University of the Witwatersrand, 10 June, https://www.wits.ac.za/news/sources/cals-news/2024/model-law-for-protection-against-slapp-suits.html.

[37] Mafusire, B., 2026, 'Civil Society as a Jurisprudential Actor: Contesting SLAPPS in Business and Human Rights Litigation in Southern Africa', American Journal of International Law Unbound, 125, p. 157.

3.6 Recommendations

SLAPPs are increasingly being employed by powerful entities to limit free speech and discourage public participation. These legal actions target organisations, activists, journalists and legal professionals indiscriminately, saddling them with legal costs and threatening them into silence. For the effective development, adoption and implementation of anti-SLAPP legislation in African jurisdictions the following recommendations are made:

1. PUBLICISE SLAPP SUITS

To prevent issues which are of public interest being turned into private court cases, civil society organisations, the media and activists must work tirelessly to transform SLAPP suits into public issues via social mobilisation, media campaigns and public education (including judicial awareness).





2. PUBLICISE HIDDEN SLAPP SUITS

Civil society organisations and the media must recognise that many attempts to intimidate and silence do not reach the courts (legal threats communicated through confidential letters and correspondence from lawyers etc). Such threats against activists and civil society organisations must also be systematically publicised. In addition, online smear and disinformation campaigns designed to encourage self-censorship must be vigorously publicised.

3. MOBILISE SHAME

When facing SLAPP suits, stakeholders should work to 'mobilise shame'. Exposing unjust behaviour to public scrutiny can be a powerful mechanism to counter the vast resources (power asymmetry) that corporations or governments can commit to SLAPP suits. While reputational damage matters to differing degrees among corporations and governments, it is nonetheless a weakness that can be exposed.[38] This particular issue speaks to both government legitimacy and the social license of corporations to operate.

A critical part of this process is to collect and present compelling evidence to show truth in statements and to demonstrate that an issue of serious public concern is present. This helps to ensure that the government and/or private companies/individuals who are initiating SLAPP suits are subject to scrutiny and held accountable for their actions or activities.



[38] Emmamally, Z., 2022, 'Slapping Down SLAPP Suits in South Africa: The Need for Legislative Protection and Civil Society Action', South African Law Journal, 139(1), p. 29.



4. FILE MOTIONS OF DISMISSAL

In the absence of specific anti-SLAPP laws, filing a motion to dismiss based on a lack of merit to a case, or filing counterclaims for harassment or restriction of civic participatory rights, can be a useful means by which to fight back against SLAPP suits. Doing so, shifts the focus back to the SLAPP plaintiff's motives and might expose the intimidatory tactics being employed by them.

5. FORM ANTI-SLAPP COALITIONS

National and regional anti-SLAPP coalitions should be formed to share information and best practice. Such forums and coalitions could facilitate specific anti-SLAPP campaigns. Alliance building between the media and human and environmental rights defenders is particularly critical.





6. UNDERTAKE LEGISLATIVE ADVOCACY

At national level, relevant civil society organisations and the media should undertake ongoing legislative advocacy to advance the promulgation of specific legal protections. This lobbying should not see the passing of anti-SLAPP legislation as the end goal but should continue so that anti-SLAPP legislation is effectively implemented. At the international level, the promotion of a binding anti-SLAPP directive from the AU should be a priority area of legislative advocacy. In addition, legislative advocacy to advance the promulgation of anti-SLAPP laws should include regional structures such as the SADC, EAC and ECOWAS.

7. LOCATE THE FIGHT AGAINST SLAPP WITHIN WIDER HUMAN RIGHTS STRUGGLES

The place of anti-SLAPP legislation should be seen within the wider struggle for democracy in Africa, including the critical question of judicial independence. Therefore, the challenge posed by SLAPP suits and other forms of judicial harassment cannot simply be reduced to a question of legal reform, because questions of political will are paramount because SLAPPs are 'part of the broader struggles for democratic accountability and economic justice.'[39] As analysts note, 'while we can outline the issues and shed light on the misuse of lawfare, fully resolving these deep-seated problems requires long term political commitment as well as accountability.'[40] What this means is that pushing back against SLAPP suits in Africa should be located within wider pro-democracy and rights movements.



[39] Mafusire, B., 2026, 'Civil Society as a Jurisprudential Actor: Contesting SLAPPS in Business and Human Rights Litigation in Southern Africa,' American Journal of International Law Unbound, 125, p. 154.

[40] Chawaremera, M. & Kugara, S., 2025, 'A Critical Lens into Lawfare as a Tool to Undermine Democracy and Civil Liberties,' African Journal of Law and Justice Systems, 4(3), p. 22.

Directory of organizations potentially offering legal, financial, and emotional support for SLAPP victims.

ORGANISATION	CONTACT INFORMATION	LOCATION
Kenya Human Rights Commission (KHRC)	admin@khrc.or.ke	Kenya
Mzalendo Trust	info@mzalendo.com	Kenya
Twaweza	info@twaweza.org	Kenya
Katiba Institute	info@katibainstitute.org	Kenya
Justice Defenders	https://www.justice-defenders.org/	Kenya & Uganda
African Environmental Defenders	https://envirodefenders.africa/	Africa wide
Zimbabwe Environmental Lawyers Association	Info@zela.org	Zimbabwe
Zimbabwe Lawyers for Human Rights	info@zlhr.org	Zimbabwe
TI Zimbabwe - Advocacy and Legal Advice Center	https://www.tizim.org/advocacy-and-legal-advice-center/	Zimbabwe
Asina Loyiko	info@asinaloyiko.org.za https://asinaloyiko.org.za/	South Africa
Legal Resources Centre	Info@lrc.org.za	South Africa
Women's Legal Centre	https://wlce.co.za/	South Africa
Lawyers for Human Rights	https://www.lhr.org.za/	South Africa
Centre for Environmental Rights	Info@cer.org.za	South Africa
Southern African Litigation Centre	Enquiries@salc.org.za	Namibia | South Africa Zambia | Zimbabwe
Centre for Applied Legal Studies	duduzile.mlambo@wits.ac.za busisiwe.kamolane@wits.ac.za	South Africa
Centre for Child Law	centreforchildlaw@up.ac.za	South Africa
Global Climate Legal Defenders	abrownell@climatelegaldefense.org	Uganda
Southern Africa Human Rights Defenders Network	info@southerndefenders.africa	South Africa | Zambia Zimbabwe
Coalition Against SLAPPS in Africa	https://www.sarwatch.co.za/project/coalition-against-slaaps-in-africa/	Africa wide
SLAPP Back	https://slappback.org.za	South Africa
Platform for the Protection of Whistleblowers in Africa	https://www.pplaaf.org/	Africa wide
Action – Access to Information Namibia	https://action-namibia.org/	Namibia
Media Institute of Southern Africa	https://misa.org/	Southern Africa
Media Monitoring Africa	https://www.mediamonitoringafrica.org/	Africa wide
Campaign for Free Expression	https://freeexpression.org.za/	South Africa
Institute for Human Rights and Development in Africa	https://ihrda.org/en/	Africa wide

Links to workshops, webinars, and manuals on SLAPP defences.

TITLE	TYPE OF RESOURCE	LINK
The Importance of Freedom of Expression *(the Southern Africa Litigation Centre)*	Report	https://www.southernafricalitigationcentre.org/wp-content/uploads/2017/08/Chapter-2.pdf
Campaign for Free Expression	Article	https://freeexpression.org.za/publications/
Legal Gaslighting – SLAPP-ing back at abusive process	Article	https://www.hsfkramer.com/notes/africa/2023-07/legal-gaslighting-slapp-ing-back-at-abusive-process
SARW/ CALS Anti- SLAPP Toolkit *(Wits University and Centre for Applied Legal Studies)*	Report	https://www.wits.ac.za/media/wits-university/faculties-and-schools/commerce-law-and-management/research-entities/cals/documents/programmes/environment/resources/Anti-Slapp-Toolkit-email-1-2.pdf
A Model Law for Protection from Strategic Litigation Against Public Participation *(Wits University)*	Legal Resource	https://www.wits.ac.za/media/wits-university/faculties-and-schools/commerce-law-and-management/research-entities/cals/documents/programmes/rule-of-law/resources/Draft%20for%20public%20comment-%2013Dec2023-%20Anti-SLAPP%20model%20law-%20Draft%202023.pdf https://www.wits.ac.za/media/wits-university/faculties-and-schools/commerce-law-and-management/research-entities/cals/documents/programmes/rule-of-law/resources/Anti-SLAPP%20Model%20Law%20for%20web%207%20June%202024.pdf
Toolkit on the right to Freedom of Association and Assembly *(Legal Resources Centre)*	Report	https://lrc.org.za/wp-content/uploads/Toolkit-booklet-210x148-Online-version.pdf
Asina Loyiko Website Launch	Webinar	https://www.youtube.com/watch?v=s1MGDFmdWvI
ICAR Annual Meeting - Protecting Protest: Fighting Back Against Corporate Bullies.	Webinar	https://www.youtube.com/watch?v=DkG8dcTsQ04
The effects of Strategic Lawsuits against Public participation (SLAPP) on freedom of expression and citizen participation in public dialogues in Kenya	Report	https://mzalendo.com/media/resources/Slapp.Report-2.pdf
SLAPPed: A Tool for Activists - Part 7: Resources	Report	https://www.acluohio.org/slapped-tool-activists/how-guard-against-slapp-suits/
Defending SLAPP Suits: Widening Circuit Split, Anti-SLAPP Motions, Cease and Desist Letters, Amended State Laws *(Strafford Webinars)*	Webinar	https://www.straffordpub.com/products/defending-slapp-suits-widening-circuit-split-anti-slapp-motions-cease-and-desist-letters-amended-state-laws-2021-03-31
SLAPPed but Not Silenced: Defending Human Rights in the Face of Legal Risks *(Vance Centre)*	Webinar	https://www.vancecenter.org/vance-centerhosts-bhr-webinar-on-role-of-lawyers-inslapps/
Anti-SLAPP Legal Guide	Blog	https://www.rcfp.org/anti-slapp-legal-guide/
Trainings on SLAPPs and Legal Defence	Webinar	https://cldc.org/resources/resource-library/?_sfm_resource-category=SLAPP
International Senior Lawyers Project	Anti-SLAPP Guide for Lawyers in Southern Africa	https://islp.org/7455-2/

Digital Security: Protecting communications and sensitive data.

Passwords: In today's digital world, safeguarding personal information online is more important than ever. This of course is amplified when activists are fighting to protect their or someone else's biodiversity, livelihood, cultural etc… One of the most effective ways to protect your data is by using strong, unique passwords for every account, and enabling two-factor authentication (2FA) wherever possible.

TIPS:

- Make sure that when creating a new password, that it is randomised, has capital letters, lower case letters and characters – and it is longer than ten digits.
- Choose reliable security methods, such as authentication apps, security keys, SMSes
- When saving passwords, make sure to save them in a key chain app or programme. Examples of these apps/programmes are NordPass, 1Password, Keeper, RoboForm

Phishing scams: It's crucial to be cautious of phishing scams — avoid clicking on any suspicious links or downloading attachments from unknown sources that do not look like it is from the company that it says it is from. i.e. john@party.xzy would not be a legitimate email from the company party.

VPNs: Using a virtual private network (VPN) when browsing on public Wi-Fi can prevent others from intercepting your data and when traveling to a country that may have unfavourable protection of information laws it may stop such governments from accessing your information.

TIPS:

- When travelling to a country that won't allow you to use a VPN, make sure it is already turned on before you arrive, as this might assist.
- Use a reputable VPN company like ExpressVPN, NordVPN, Cyberghost, Surfshark.

Emails: Emails can be intercepted when being sent via the web. To stop this, you can use an encryption scrambling systems that only the other person will be allowed to read the email once received. Or you can use free email system like protonmail or tuta. (If using Protonmail, don't forget your password as it won't allow you to reset this.)

Ad blocker, trackers and pop-ups: When engaging on the web multiple organizations / people / hackers want to try and obtain as much information from you as possible or they trying to have ads pop every five minutes to sell you something or click on a website that is harmful to your computer / laptop. Installing apps like Ghostery is a great way to stop Adverts, trackers or pop-ups.

Search Engine Tracking – Google, Bing, Yahoo etc. track your internet activity. There are several, search engines that do not. Good options which do not track activity are DuckDuckGo (*https://duckduckgo.com/*) or Brave Search (*https://search.brave.com/*).

Messaging Services – While no messaging services are completely secure, it is recommended not to use WhatsApp, rather use an alternative such as Signal which tracks far less user activity.

Cell/Mobile Phones – Turn off location settings for apps where possible.

Google Maps – Be cautious of using Google Maps.

There is a useful guide to activist security here - *https://activisthandbook.org/tools/security* while the following organisation can help activists and NGOs with digital security issues - *https://www.accessnow.org/help/*.

Remember, any information can still be accessible and you are never one hundred percent safe on the internet. Please make sure you take care when sharing sensitive information





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