**QUESTIONNAIRE CONSULTATION ON STRATEGIC LAWSUITS AGAINST PUBLIC PARTICIPATION IN THE AMERICAS**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) is preparing a report on strategic lawsuits against public participation (SLAPPs) and the standards applicable to address this phenomenon.

The purpose of this report is to offer a diagnosis of the problem in the Americas, to compile the standards of international human rights law applicable to the issue, and to compile good practices to counteract the phenomenon. The relevance of this report is based on the concern for the growing abusive use of judicial mechanisms to silence expressions of public interest. In addition, it seeks to address the request made by a group of local and international organizations[[1]](#footnote-1) during the thematic hearing "Judicialization of matters of public interest against persons exercising freedom of expression (SLAPPs) in the region", held on July 12, 2023 in the framework of the 187th period of sessions of the IACHR. There, civil society organizations highlighted the importance for RELE to prepare a thematic report on the dimension and impact of SLAPPs on freedom of expression, in light of the American Convention and the standards of the Inter-American human rights system. [[2]](#footnote-2)

In this context, the Office of the Special Rapporteur invites States, civil society organizations, human rights defenders, academic institutions and any interested person to submit information on the following topics:

**In relation to the identification of strategic lawsuits against public participation:**

1. What criteria do you consider should be applied to qualify a judicial process as a strategic lawsuit against public participation?
2. Is there jurisprudence or regulations in your country establishing criteria to identify this type of lawsuits? What factors do these decisions or regulations establish for such identification?
3. What would be the differentiating factors between this type of lawsuits and other phenomena of judicialization or criminalization of expression?
4. Does your country have forum shopping practices, i.e. the filing of lawsuits aimed at silencing speech in jurisdictions more favorable to the plaintiff/complainant? Are there any rules or jurisprudence in your country to prevent this phenomenon?

**Regarding the impacts of strategic lawsuits against public participation:**

1. Which human rights are primarily affected by the use of strategic litigation against public participation? Why?
2. What activities or persons are usually the most affected by this type of lawsuits in your country?
3. If available, please share figures on this phenomenon in your country, with source and link if possible.

**Regulatory frameworks, public policies, jurisprudence**

1. Is there any case law in your country on the limits applicable to the right of access to justice?
2. Is there jurisprudence or regulations in your country related to the abuse of the right to litigate or similar figures? What are the criteria used to configure such abuse and what are the consequences in case it is configured?
3. Is there jurisprudence or regulations in your country that are facilitating, encouraging or creating a heightened risk of strategic lawsuits against public participation?
4. Is there any case law in your country in which the control of conventionality or constitutionality is applied in order to respond to a strategic lawsuit against public participation?
5. Are there any regulations in your country that allow for the early termination or dismissal of complaints or lawsuits on the grounds of frivolousness, lack of merit or unlawful purpose?
6. Are there public policies for training or educating judicial officials on freedom of expression in your country? Do they include the study of issues related to the impact of strategic lawsuits against public participation on human rights?

**Recommendations**

1. What concrete actions should States take to prevent strategic lawsuits against public participation?
2. What concrete actions should States take to counteract strategic lawsuits against public participation when they arise?
3. What concrete actions should bar associations, corporations, associations, law firms, or other regulatory or associative bodies of the legal profession take to counteract these phenomena?
4. What support mechanisms should the media and civil society establish to assist individuals or entities affected by this phenomenon?
5. What specific measures should the media and civil society take to address or mitigate the negative human rights impacts of strategic lawsuits against public participation?
6. What concrete actions can be taken in the judicial sector to prevent and sanction this type of lawsuits?

The questionnaire may be answered partially or completely, depending on the information available; research, reports, guides and other documents relevant to the topic may be submitted. The information should be concise, objective, with verifiable sources and up-to-date, and may include figures and statistics related to the topic. The information may be submitted in Spanish, English, and/or Portuguese.

The IACHR will receive from today until **November 8, 2024** the information sent to the e-mail CIDHexpresion@oas.org.

The Office of the Special Rapporteur for Freedom of Expression is an office created by the Inter-American Commission on Human Rights (IACHR) to encourage the hemispheric defense of the right to freedom of thought and expression, considering its fundamental role in the consolidation and development of the democratic system.

1. Article 19, Fundación para la Libertad de Prensa (FLIP), El Veinte, Foro de Periodismo Argentino (FOPEA), Instituto de Prensa y Sociedad, Peru, (IPyS Peru), Columbia Global Freedom of Expression (GFoE), Associação Brasileira de Jornalismo Investigativo (Abraji), Instituto DEMOS. [↑](#footnote-ref-1)
2. IACHR, [187th session, Judicialization of matters of public interest against persons exercising freedom of expression](https://www.youtube.com/watch?v=75PQj1TOSH0&t=7s), July 13, 2023. [↑](#footnote-ref-2)