**Definition**

* SLAPP stands for Strategic Lawsuits (or Litigation) Against Public Participation.
* Although anti-SLAPPs laws exist around the globe, we cannot speak of the term SLAPP as if it were a set, uncontested phenomena – there is too much definitional divergence.
* The definitions favoured by CASE (Coalition Against SLAPPs in Europe) and the UK anti-SLAPPs Coalition are unprincipled and impractical because they conflate these divergent definitions to produce something that overreaches and undermines legal rights to reputation and private life. To legalise these definitions is to replace one social harm with another.
* The difference between this mega-definition and its original form is stark. At its inception, public participation meant civic engagement, capturing the activity of civic-minded citizens whose complaints to elected officials and public institutions – usually in response to planning violations by aggressive property developers – were penalised by phony threats of legal action for, say, conspiracy or the intentional infliction of harm.

**Key Points:**

* The case for legal reform to tackle Strategic Lawsuits Against Public Participation (SLAPPs) is one-sided and lacks independent corroboration. Valid legal actions will be jeopardised if the approach favoured by anti-SLAPPs lobbyists is accepted.
* This approach is flawed for two reasons. First, the definition they rely upon is too broad. Rights to reputation and private life, under Article 8 European Convention on Human Rights, are undermined by it. Secondly, the evidence of a UK SLAPPs problem is inaccurate and misleading.
* The government should ask the Law Commission to investigate and make recommendations upon whether, and to what extent, the UK has a SLAPPs problem and whether, and to what extent, legislative reform would cure this problem should it exist.
* Press freedom was not part of this original definition, not least because the press enjoyed (and enjoys) formidable protections in law already.
* The European campaign for SLAPPs reform is driven by the continuing criminalisation of defamation on the continent – something that does not exist in the UK.
* Properly understood, SLAPPs are vexatious claims. As such, they abuse the legal system. The threat to democracy arises because the civic-minded actors involved should not have to tolerate the interference to their legitimate actions which these bogus legal actions represent.
* Arguable cases – that is, cases which require adjudication to settle them – are not SLAPPs, even if the defendant is a public participant (ie, the press) and even if the claimant loses. Such litigation represents the inalienable right of all to have legitimate grievances heard by the state.

**Evidence**

* CASE’s latest figures say that there have been 33 reported SLAPPs in the period 2010-2023.
* The source of this figure is opaque. The publicly available data-set that CASE provides contains 26

entries. Some of these entries are duplicates. Once those are removed, the figure drops to 19.

* 13 of these resulted in publicly available judgments.
* These judgments demonstrate two things. First, that the current system is working sufficiently to eliminate baseless claims. Secondly, that Parliament, both in this session and the last, often refers erroneously to several of these disputes as SLAPPs when, on a proper analysis, they constitute legitimate claims.
* Of these misidentified disputes, *Banks v Cadwalladr* (2023) stands out. Given that Banks was awarded substantial damages on appeal, it cannot be said that his suit against Carol Cadwalladr was an abuse of the legal process. Moreover, the High Court was explicit that the case could not be described as a SLAPP.
* Similarly, the litigation by various claimants against Harper Collins and Catherine Belton concerning the latter’s book *Putin’s People* (2020) is consistently but wrongly referred to as a SLAPP. Of the two reported judgments, concerning Roman Abramovich and a company called Rosneft, neither can be described as a SLAPP since the court found in favour of the claimant on the preliminary questions of defamation and harm.
* Of the other claimants, Harper Collins admitted that there was no evidence linking Petr Aven and Mikhail Fridman to the KGB, as Belton had alleged, and amended the book accordingly. Given this admission, it cannot be said that the claims are SLAPPs.
* Anti-SLAPP campaigners have persuaded successive governments and backbenchers of increased SLAPPs activity in the UK. On CASE’s own evidence, though, no such threat is apparent, for several reasons.
* First, if SLAPPs are an abuse of the legal system, then only one of the CASE cases – *Subotic v Knezevic* (2013) – is properly classifiable as such. Only in that case, it seems, did the application for strike out for abuse succeed. None of the defendants in the other reported cases issued such applications, which they could have if the underlying claims were truly without merit.
* Second, if, as CASE also says, SLAPPs aim to ‘shut down criticism and efforts to advance accountability’ and are ‘a menace to societies’ right to know, to freedom of expression, and to the right to public participation,’ then two entries (concerning EDF Energy and INEOS Upstream) must be excluded given that they related to unlawful conduct (aggravated trespass). Another (*ENRC v Serious Fraud Office and others* (2023)) must be excluded on the basis that freedom of expression, or any other type of public participation, was not involved.
* Similarly, two other entries are dubious instances of public participation relating, as they do, to the peer review system in academic journals (*El Naschie v MacMillan* (2011)) and the real identity of Bitcoin’s inventor (*Wright v Ver* (2020)) – unless, that is, an especially generous notion of ‘public interest’ is applied.
* Thirdly, given the court’s findings in each of an arguable case (albeit, in *Subotic v Knezevic* not one that the court found would justify further court time and costs, etc), to apply the penalties that anti-SLAPPs campaigners agitate for (including indemnity costs and exemplary damages against claimants for causing psychological damage to the defendants) replaces one social wrong with another in its jeopardization of the right of access to court, to hear legitimate grievances concerning, eg, Article 8 rights to reputation.
* Finally, the first four of CASE’s 19 claims should be dismissed in any event relating, as they do, to the period prior to the Defamation Act 2013 coming into effect. Amongst other things, the Act raised the threshold considerably for libel claims to be brought.

**Resolution**

* The case for urgent legal reform is not made out. Change of the sort urged by CASE and the UK anti-SLAPPs coalition is precipitous. It will compromise the legal rights of others and cause injustice.
* The press enjoys formidable legal protections, not least through the changes brought about by the Defamation Act 2013 relating to the necessity for serious harm (especially for corporations) and the public interest defence. The case law shows that these changes are working.
* The Civil Procedure Rules already provide plentiful early dismissal mechanisms, achieved through active case management, which gives the defendant ample opportunity to have vexatious claims struck out. This can be achieved before the defendant is put to the cost of filing a defence, for example.
* The government should not commence legislative action concerning SLAPPs unless and until the Law Commission has investigated, and made recommendations upon, whether, and to what extent, the UK has a SLAPPs problem and whether, and to what extent, legislative reform would address this problem should it exist.

**References**

* This paper summarises P Wragg, ‘SLAPPs in England and Wales: The Issues and the Evidence,’ (2024) Report, University of Leeds, <https://eprints.whiterose.ac.uk/221028/>, which benefitted from generous funding by the Society of Media Lawyers, which comprises lawyers acting for both claimants and defendants in media law disputes.
* *Banks v Cadwalladr* [2019] EWHC 3451 (QB); [2022] EWHC 1417 (QB); [2023] EWCA Civ 219
* *Abramovich v HarperCollins & Belton* [2021] EWHC 3154 (QB)
* *Rosneft v HarperCollins & Belton* [2021] EWHC 3141 (QB)
* J Thorburn, ‘Publisher HarperCollins apologises to Russian businessmen over claim they were connected to KGB as Roman Abramovich continues case against book that said he bought Chelsea on Putin’s orders,’ *MailOnline*, 4 August 2021, <https://www.dailymail.co.uk/news/article-9861233/HarperCollins-apologises-businessmen-Roman-Abramovich-claim-connected-KGB.html>
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* *Eurasian Natural Resources Corporation v Serious Fraud Office & others* [2023] EWHC 2488 (Comm); [2024] EWHC 1244 (Comm)
* *El Naschie v MacMillan & others* [2011] EWHC 1468 (QB); [2012] EWHC 1809 (QB)
* *Wright v Ver* [2020] EWCA Civ 672

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Professor Wragg belongs to the Centre for Business Law and Practice. Established in 1996, the Centre has gained an international reputation for high quality research and impact across key areas of business law, including corporate and financial law, competition law, environmental law, intellectual property law, tax, regulation, and contract, consumer and commercial law. The Centre is home to over 30 academic staff and a large postgraduate community, guided by an advisory board of national and international legal experts and practitioners. In September 2025 the Centre will host the annual conference of the Society of Legal Scholars, the oldest and largest learned society in the field of law in the UK.