



# EXAMPLES OF ABUSE OF PROCESS AND “LAWFARE” IN SINGAPORE AND OTHER JURISDICTIONS



## United States

01 Individuals who abuse their intimate partners often also misuse court proceedings to control, harass, intimidate, coerce and/or impoverish the abused partner. Such litigation can be a means of abusing survivors of domestic violence long after the relationship has ended. To better protect such individuals, the state legislatures in Washington State and Vermont have provided the courts with additional powers to curb abusive litigation against victims of domestic violence, sexual assault or stalking.

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02 In 2017, the Senate Judiciary Committee convened a hearing on “The Impact of Lawsuit Abuse on American Small Businesses and Job Creators”. The Chairman of the Committee noted that the “sheer cost of modern litigation - on time, emotions, and financial resources of the parties involved - has become a leveraging opportunity for those who wish to make a quick buck” particularly in the small business sphere. He also highlighted the rising trend of lawyers commencing abusive or bogus claims against local businesses with the main incentive of forcing a monetary settlement. The Chairman called for rules to “better deter harmful, abusive and frivolous litigation”.

In 2023, a report by the U.S. Chamber of Commerce Institute for Legal Reform also highlighted the trend of such abusive lawsuits, which were found to have disproportionately affected small businesses.

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## Europe

03 Strategic lawsuits against public participation, also known as “SLAPPs”, are legal actions typically brought with the intention of harassing, intimidating and financially or psychologically exhausting opponents via improper use of the legal system. They involve the use of the judicial process for purposes other than genuinely asserting, vindicating or exercising a legal right.

The Committee on Civil Liberties, Justice and Home Affairs of the EU Parliament commissioned a 2023 study into open SLAPP cases in 2022 and 2023. It found that the phenomenon of SLAPPs is on the rise.



## United Kingdom

04 The UK government also published a policy paper in March 2024 to propose legislative action in the area of SLAPPs.

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## Singapore

05 In an extra-judicial lecture delivered on 4 February 2023 (Inaugural Supreme Court Of India Day Lecture), our Chief Justice Justice spoke about the phenomenon of truth decay: the proliferation of disinformation and the devaluation of truth in our societies. In the context of court proceedings, the learned Chief Justice observed that “while there does not appear to have been empirical studies on this, a number of recent examples suggest that truth decay is spreading into court proceedings”. He cited “the conduct of some advocates, who have in some cases attempted to conceal facts from the courts, or to delay proceedings on spurious grounds”.

**“ And while there does not appear to have been empirical studies on this, a number of recent examples suggest that truth decay is spreading into court proceedings ...**

**Truth decay can also be seen in the conduct of some advocates, who have in some cases attempted to conceal facts from the courts, or to delay proceedings on spurious grounds. ”**

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06 In *Mohammad Farid bin Batra v Attorney-General* [2022] SGHC 132, the applicant had been sentenced to life imprisonment and caning for possessing drugs for the purposes of trafficking. After his appeal had been dealt with, he filed two subsequent applications to the Court of Appeal which were dismissed. Thereafter, the applicant filed another application to the General Division of the High Court on an urgent basis.

The court, in dismissing the application, found that it was “audaciously and brazenly devoid of any merit”. It also noted that “the only ready conclusion that can be reached is that the application must have been mounted with the objective of securing a delay in the carrying out of caning” until after the applicant’s 50th birthday, when he could no longer be caned under the law. In other words, the applicant had filed a completely baseless claim to delay, and ultimately avoid, caning.

The court also noted that it “would have to leave it to the executive and the legislature to consider whether and what action can be taken in future instances of abusive applications by litigants and those advising, assisting or egging them on”.