



Investor Statement on Strategic Lawsuits Against Public Participation (SLAPPs)

25 May 2021

The undersigned, representing **XX** institutions with **XX** USD of combined assets, call on companies to take broad, systemic action to protect human rights defenders, and immediate action to ensure that they do not use or support strategic lawsuits against public participation (SLAPPs) against individuals, organizations, or communities who peacefully promote or protect human rights and the environment.

Human rights defenders, acting individually or with others, are at the forefront of protecting our rights, natural resources, and shared planet and play an invaluable role in fostering corporate respect for human rights. By uncovering the human rights and environmental impacts of business activities, defenders are vital in identifying and preventing risks throughout the value chain and securing remedy when abuses occur. In addition, defenders contribute to a free, open, and enabling environment, where civic freedoms and the rule of law are upheld, an important condition for business investment.

Despite their central role in effective due diligence to identify and address human rights and environmental impacts, the [Business & Human Rights Resource Centre](#) has recorded [more than 3,000 attacks](#) worldwide against defenders who have raised the alarm about irresponsible business practices. Strategic lawsuits against public participation (SLAPPs) are one of these tactics used by business actors to stop defenders from raising concerns about their practices.

New research by the Business & Human Rights Resource Centre reveals how these criminal and civil lawsuits brought against individuals and groups for raising concerns about business operations can drain the resources of human rights defenders and have a broader chilling effect. The Resource Center research identified 355 cases brought across the globe since 2015 that can be categorized as SLAPPs, with the highest numbers occurring in Latin America (36%) and Asia (25%). Although companies across multiple sectors have brought SLAPPs, the research shows that 70% of the cases involved the mining, agribusiness, logging, and palm oil sectors. Based on available information in 75 of the examined cases, the damages sought by the claimants totaled nearly 1.5 billion USD.

Ultimately, SLAPPs reflect an abuse of the legal system by powerful actors to drain the resources of defenders, including community members, environmental advocates, Indigenous peoples, workers, trade unionists, journalists, and others who speak out, and to make others afraid to do the same.

In light of these and other egregious attacks against human rights defenders, it is urgent for companies and investors to denounce acts that restrict or impair the legitimate work of defenders and to take positive steps to challenge the erosion of civic freedoms. Under the [UN Guiding Principles on Business and Human Rights](#), companies and investors have a responsibility to avoid infringing on the rights of others and to identify, prevent, and mitigate human rights risks to defenders. Investors and companies

should enact clear public policies to support the work of and not retaliate against defenders and include risks to defenders in their human rights due diligence.

Investors may also face these risks. Responsible investment advisor Morgan Simon and the Candide Group were sued by a private prison company for defamation because of their efforts to address the links between banks, private prisons, and immigrant detention. In November 2020, a judge dismissed the lawsuit without leave to amend concluding that the alleged defamatory statements were permitted under the First Amendment and California defamation law.

The investor signatories call on companies to:

- Commit to a clear public policy of non-retaliation against defenders and organizations that raise concerns about the company and its business practices and adopt a zero-tolerance approach on reprisals and attacks on defenders in their operations, value chains, and business relationships.
- Refrain from and commit to not using SLAPPs or other forms of judicial harassment to stop public participation and advocacy.
- Communicate expectations for their business partners not to bring SLAPPs with the intention of silencing critics, continuously monitor their use, and act consistently on their findings.
- Implement due diligence procedures in line with the UNGPs for the prevention of harm and human rights abuse of individuals, communities, and the environment, which explicitly recognizes the risks to defenders. Companies investing or working in districts and/or sectors with high levels of attack must prioritize the risks to defenders in their human rights due diligence and act consistently on their findings.
- Actively engage with defenders and grass-roots civil society organizations in the elaboration of their human rights policies and due diligence measures.
- Establish and implement processes for the remediation of adverse human rights impacts on human rights defenders, including SLAPPs, which companies cause or to which they contribute.

We encourage investors to publicly recognize the important role of human rights defenders in identifying risks associated with business activities. We also encourage investors to undertake rigorous human rights due diligence and review potential investees for their history of SLAPPs or other forms of judicial harassment and to consider the risks of investing in companies with a track record of SLAPPs.

Given the ongoing threats that human rights defenders are subjected to because of their actions to protect communities, people, and the planet, it is incumbent on companies and investors to act with urgency in support of defenders who play a crucial role in advancing the rule of law and the corporate responsibility to respect human rights.