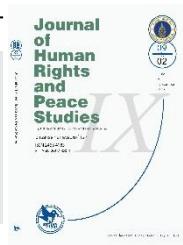




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Examining the Impact of SLAPPs on Income Inequality: An In-depth Case Study from Thailand

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ABSTRACT

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In recent decades, Thailand's impressive economic growth and substantial poverty reduction have been overshadowed by the persistent challenge of income inequality, hindering the nation's progress. This paper explores the correlation between income inequality and a surge in strategic lawsuits against public participation (SLAPPs) in Thailand. Drawing on diverse data sources, this study identifies sustained income inequality as a driving force behind the rise in SLAPPs, and vice versa, thus disproportionately affecting economically disadvantaged groups and exacerbating socio-economic disparities. To counteract these trends, the paper advocates reinforcing Thailand's anti-SLAPP legislation, adopting relevant business initiatives, and fostering active stakeholder engagement to promote a supportive ecosystem for activists and poor, low-income SLAPP victims. These measures are crucial for preserving democratic values, addressing the multifaceted challenges of SLAPPs, and creating a more equitable and participatory societal landscape.

Introduction

Over the past few decades, Thailand has achieved notable economic development and transformed from one of the poorest countries in the world in the 1950s to the fastest-growing economy in the world in the late 1980s (Warr & Nidhiprabha, 1996). The sustained and rapid growth period was driven primarily by a labor-intensive export-oriented development strategy combined with prudent macroeconomic policies (Warr, 2004; Hill, 2017). Consequently, this remarkable period of growth resulted in massive poverty reduction and significant improvements in indicators of well-being, such as life expectancy and adult literacy.

However, Thailand continues to grapple with entrenched income inequality. A notable surge in income inequality, measured by the Gini coefficient, occurred during the rapid growth phase from 1988 to 1992, followed by a subsequent decline until the 1997 Asian Financial Crisis. In the past two decades, despite improvements in certain aspects of well-being, the nation has faced persistent challenges related to income distribution, as highlighted by studies examining real expenditure disparities and income shares across different quintiles (Warr & Suphannachart, 2020; Jenmana, 2018).

This high level of income inequality carries significant consequences, affecting economic growth, access to health and education, and societal responses to inequality along with economic development. Societal grievances arising from sustained inequality can manifest in protests and uprisings, as suggested by Hirschman's unbalanced growth theory (Hirschman, 1973). Empirical studies have explored opinions on redistribution, indicating that attitudes depend on expectations regarding future economic status changes (Ravallion & Lokshin, 2000; Wang et al., 2015). Notably, income inequality in Thailand has been associated with political activism, particularly following the 2006 coup (Hewison, 2014).

Moreover, a significant power imbalance resulting from a high level of income inequality can lead to strategic lawsuits against public participation (SLAPPs), as individuals use their resources to silence others through abusive litigation strategies (Canan & Pring, 1988). SLAPPs aim to stifle political oppression, to victimize the poor or marginalized, and further to exacerbate income inequality. Recently, Thailand has experienced a surge in SLAPP cases targeting human rights victims, activists, campaigners and journalists, acting as a legal tool to impede citizen activism and violate human rights.

Motivated by the interplay between sustained income inequality and the increasing prevalence of SLAPP cases, this article aims to construct a theoretical framework elucidating the relationship between SLAPPs and income inequality in the Thai context. The study utilizes data from various sources to offer insights into potential policy reforms, emphasizing the necessity for mature and comprehensive Anti-SLAPP legislation in Thailand. The research methodology employs descriptive analysis, utilizing secondary data from sources such as the World Values Survey and the Standardized World Income Inequality Database to examine SLAPPs and income inequality in Thailand, subjecting the data to qualitative content analysis.

The paper is structured to delve into specific aspects: income inequality in Thailand, the definition and characteristics of SLAPPs, SLAPP cases in Thailand, the existing legal framework, the relationship between economic development, income inequality, and SLAPPs, and responses and countermeasures.

Income inequality in Thailand

Despite Thailand's overall economic progress, income inequality remains a challenge. Income inequality can be represented through various means, including a well-known index known as the Gini coefficient. This index measures income/expenditure inequality, with higher values (close to 1) indicating greater inequality and lower values (close to 0) indicating less inequality. Thailand saw a sharp increase in income inequality measured by the Gini coefficient during the rapid growth phase from 1988 to 1992 (World Bank, 2023). During this period, the income gap between the poorest and the richest quintiles also increased. While this phenomenon seems to be explained by the Kuznets hypothesis (Kuznets, 1955) on the relationship between economic growth and income inequality, it suggests that at least one section of the economy grew much faster than other sections. Put simply, the real incomes of the rich increased faster than those of the poor. An increase in income inequality can be attributed to the disparity in income between workers and capital owners within a given industry. After 1992, the Gini coefficient and the disparity between the richest and the poorest quintiles declined over the years to 1996 (before the 1997 Asian Financial Crisis).

Warr and Suphannachart (2020) calculated changes in real expenditure per person from 1986 to 2017 and discovered that the monthly per capita expenditure for the poorest quintile increased by THB 1,452, while that of the wealthiest quintile rose by THB 6,721. This increase translates to the richest quintile experiencing absolute gains per person that were 4.6

times larger than those of the poorest quintile. Similarly, Jenmana (2018) utilized the data from administrative tax returns and from national accounts and found that income inequality remained very high compared to the figures obtained from household surveys. In 2016, the richest 10% of the population received more than 50 percent of Thailand's national income, and the top 1 percent received about 20 percent of income. The bottom half of the population received only 13 percent of the national income. By comparing the evolution of the national income share of the top 10 percent from 2001 to 2016, the same study concluded that income inequality in Thailand is high by international standards. In addition, Laovakul (2016) suggested that Thailand's Gini coefficient of land distribution in 2012 was 0.886. The richest quintile held 325.73 times more land than the poorest quintile. Overall, there was evidence that inequality in Thailand was still high.

As shown in Figure 1, Thailand had experienced a decrease in consumption inequality over the previous decade, with the Gini coefficient decreasing from around 0.40 in the 2000s to approximately 0.35 in the early 2020s (World Bank, 2023). However, the Gini coefficient data reveal ups and downs between 2011 and 2021. In addition, about 35 percent of Thailand's total income or wealth is held by the wealthiest portion of the population in 2021, while the remaining 65 percent is distributed among the rest of the population. Although this index indicates a declining trend in income inequality in Thailand, it also highlights the high level of inequality and the concentration of wealth and opportunities among specific groups, leaving others at a disadvantage.

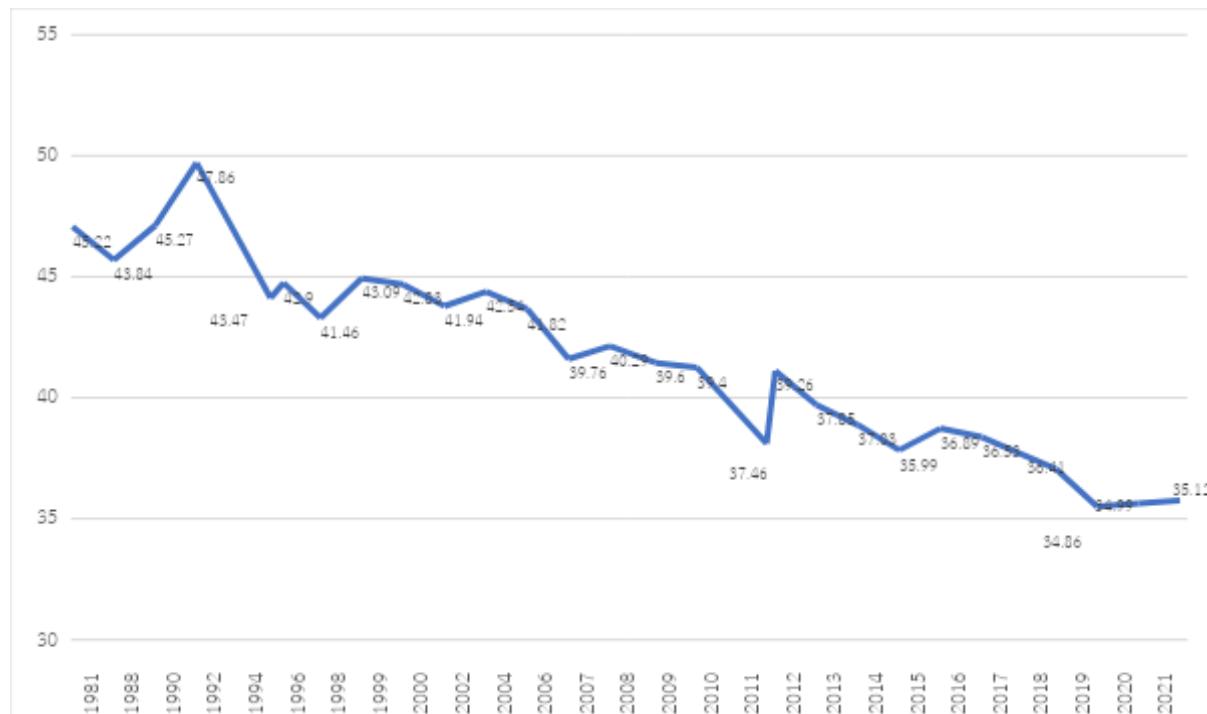


Figure 1. Gini coefficient (Consumption) for Thailand, 1981-2021

Source: World Bank (2023)

The unequal distribution of wealth among individuals or groups within a society or across different regions in Thailand can arise from several factors, particularly economic factors such as economic growth, trade, and government economic policies (Warr, 2004). According to the World Bank (2023), despite the fluctuating Gross Domestic Product (GDP) growth rate in Thailand over time (see the red line in Figure 2), the relative distribution of gross domestic product among the seven regions in Thailand has remained relatively stable. This stability can be interpreted as an indication of inequality, particularly when considering the disparities in GDP among these regions in Thailand. More precisely, the GDP was distributed as follows: (1) Northeastern region - 9.52 percent; 2) Northern region - 6.51 percent; (3) Southern region - 7.12 percent; (4) Eastern region - 16.70 percent; (5) Western region - 3.21 percent; (6) Central region - 5.67 percent; and (7) Bangkok and vicinity - 51.25 percent. Large cities like Bangkok and its vicinity account for a substantial share of their country's GDP due to their economic significance and concentration of economic activities such as thriving commercial centers, manufacturing facilities, financial institutions, technology companies, educational institutions, healthcare providers, and many more (World Bank, 2023). Figures on regional GDP per household also show a high level of inequality across the country (NSO, 2023). In 2022, GDP per household is

highest in Bangkok and vicinity (39,047 Baht), followed by central region (28,166 Baht), southern region (26,621 Baht), southeastern region (21,587 Baht), and northern region (20,995 Baht).

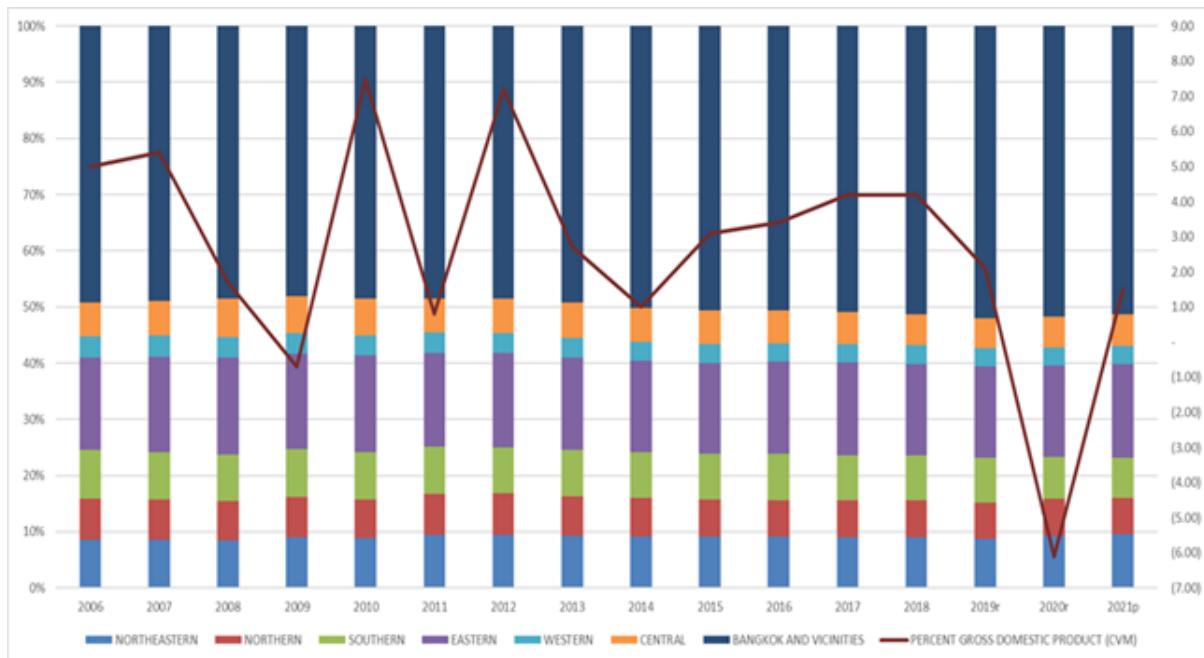


Figure 2. Regional gross domestic product chain volume measures and gross domestic product growth rate, 2006-2021

Source: World Bank (2023)

Note: The bar chart represents Regional Gross Domestic Product Chain Volume Measures (with the reference year being 2002) for the following regions: 1) Northeastern; 2) Northern; 3) Southern; 4) Eastern; 5) Western; 6) Central; and 7) Bangkok and its vicinity (left hand scale). The line chart presents the Gross Domestic Product Growth Rate (right hand scale).

The effects of inequality can have wide-ranging impacts on individuals, communities, and societies. While some economists argue that inequality is, overall, advantageous as it accelerates economic growth to a certain level (Forbes, 2000) and enhances the overall quality of life for society's members, most empirical research suggests that the accumulation of wealth perpetually marginalizes minority groups, obstructs economic growth (Alesina & Rodrik, 1994), exploits vulnerable populations, and gives rise to a multitude of social issues. The observed increase in top income and wealth shares in several countries, especially developed countries, over recent decades, as noted by Alvaredo et al. (2017), underlines the significance of distinct country-specific policies and institutions.

Building on these broader perspectives, scholars list several consequences of sustained income inequality, such as low economic growth and unequal access to health and education (Neckerman & Torche, 2007; Neves et al., 2016). Moreover, inequality affects how the losers from economic development perceive and respond to high and persistent income inequality during the process of economic development. As suggested by Hirschman (1973), when inequality tends to emerge at the beginning of economic development, people can tolerate it because they believe they can climb the income ladder later. However, sustained inequality produces societal grievances that can develop into protests and uprisings.

There are a few previous studies that empirically examine sustained inequality as Hirschman's theory has done. Ravallion and Lokshin (2000) found that about 50 percent of people who expect welfare to rise in the next 12 months support redistribution, while 84.5 percent of people who expect welfare to fall want the government to restrict the incomes of the rich. This finding suggested that opinions on redistribution to reduce the current level of income inequality depend on how people expect their future economic status to change. A recent paper by Wang et al. (2015) argued that a lower level of income inequality is beneficial to individual happiness, while excessive income inequality is associated with a lower level of happiness. However, the relationship between inequality and protest remains inconclusive. Using a unique dataset on political protests in 28 European countries, Kurer et al. (2019) discovered that decreased economic prospects and rising economic grievances increase political participation. A study by De Juan and Wegner (2017) suggested that horizontal social inequality and unequal social outcomes across groups matter for protests. In the case of Thailand, Hewison (2014) noted that income inequality is associated with political activism, especially after the 2006 coup.

SLAPPs: Definition and Characteristics

SLAPPs, or 'strategic lawsuits against public participation,' were originally defined by Pring and Canan (1996) as legal actions filed by powerful subjects against non-government individuals or organizations who articulated a significant stance on a matter of political or societal importance. These meritless lawsuits are often used against activists and community residents engaged in grassroots environmental activism. While these lawsuits often lose in court, their purpose is not to win legally but to discourage public participation by instilling fear and diverting attention from environmental and health issues, thus deterring people from

taking action to protect their communities' environment and well-being (Environmental Law Institute & the Southwest Network for Environmental and Economic Justice, 1997). The United Nations Environment Programme (UNEP, 2023) noted that SLAPPs primarily target environmental human rights defenders (EHRDs) and involve baseless legal actions to silence their legitimate criticisms. Mañko (2023) emphasized that SLAPPs extend beyond governments; powerful private entities, including corporations, employ them to have a "chilling effect," creating significant power imbalances and discouraging public engagement in democratic discourse (Shapiro, 2010).

As highlighted by the United Kingdom's Ministry of Justice (2022), SLAPPs exhibit two key elements. Firstly, they target actions involving public engagement, such as academic research, journalism and whistleblowing, particularly concerning socially significant issues like corruption. Secondly, their objective is to impede the dissemination of public interest information through intimidating legal actions with exaggerated claims. These lawsuits traditionally target various entities, including journalists, media outlets, scholars, civil society organizations (CSOs), non-governmental organizations (NGOs), human rights defenders, activists, publishers, and community leaders (Borg-Barthet et al., 2021, p. 7; Dutta, 2020, p. 2). SLAPP lawsuits encompass diverse legal grounds in different countries. In the United States, common claims include defamation, business torts, constitutional violations, and nuisance. Canada often sees cases related to invasion of privacy, while recent U.S. SLAPPs have alleged copyright infringement and trespass, with increasing reliance on federal racketeering laws. Australia has witnessed a surge in SLAPPs based on commercial torts and fair competition laws (Dutta, 2020, pp. 3-4).

These strategic lawsuits, as indicated by the United Kingdom's Ministry of Justice (2022), are employed as a means of suppression, causing significant personal, financial, and psychological harm to those involved. They profoundly impact freedom of speech, generating a chilling effect that diverts resources from critical matters, ultimately harming society. Consequently, defendants in SLAPPs endure physical, emotional, and financial strain, often entangling them in protracted legal battles that disrupt various aspects of their lives (Wilkins et al., 2010). In the context of environmental protection, SLAPPs hinder the enforcement of environmental laws and may result in relaxed pollution control measures, disrupting the dynamics among citizens, regulators, and polluters (Norman, 2010).

While the term 'SLAPP' originated in the United States, Greenpeace (2020) highlighted its prevalence in Europe, often targeting journalists and media entities. Unlike countries with specific anti-SLAPP laws, the European Union currently lacks such protections. Globally, SLAPPs are on the rise, with the Asia-Pacific Region experiencing one of the highest occurrence rates (UNEP, 2023). Several Southeast Asian countries, including Thailand, Indonesia, and the Philippines, have introduced legislative mechanisms against SLAPPs (Zorob, 2020).

SLAPP Cases in Thailand

According to the Human Rights Lawyers Association (2019), Thailand experienced a significant increase in SLAPP cases starting in 2013, with a notable surge after the May 22, 2014 coup when legal means were employed to restrict freedom of expression. From 1997 to May 2019, 212 cases were identified as SLAPPs. These cases were categorized as follows: nine were civil cases, seven involved both civil and criminal aspects, and the majority, 196 cases, were criminal. Among the 212 cases, 59 were initiated by the injured parties, primarily private corporations, while 153 cases were instigated through complaints or charges filed by investigating officers.

Similarly, Kaewjullakarn and Homket (2023) noted that approximately 109 SLAPP cases were filed by the business sector and state-owned enterprises in Thailand between 1997 and 2022. These cases targeted various groups, with the majority filed against villagers advocating for local rights (78 percent), followed by activists and NGOs (10 percent), trade unionists (6 percent), and media personnel (3 percent). Industries that filed SLAPPs included mining companies (34 percent), livestock corporations (31.1 percent), energy enterprises (13.8 percent), and others (31.1 percent). Actions most susceptible to SLAPPs included online information dissemination/expression (28 percent), holding rallies and assemblies (21 percent), giving media interviews (15 percent), reporting news and facts (10 percent), and submitting complaints to relevant agencies (9 percent).

In recent years, Thailand has witnessed numerous SLAPP cases in response to activism and journalism uncovering alleged misconduct by Thai companies (International Commission of Jurists, 2022; ARTICLE 19, 2021; Kangkun, 2023). In November 2015, Thai PBS and four journalists were entangled in criminal defamation charges due to their reporting on environmental harm attributed to Tungkum Ltd. in Loei Province. Although the case was subsequently dismissed, Tungkum Ltd. continued its legal pursuits against numerous Loei

residents, prompting noteworthy SLAPP-related apprehensions within Thailand (Fortify Rights, 2018). As reported by Dutta (2020), another notable case involved Thammakaset Co. Ltd., a Thai chicken farm operator, which instigated a series of SLAPPs after migrant workers filed a labor violation complaint in 2016. Thammakaset initiated multiple cases, including criminal complaints against the workers for defamation, charges of theft, and criminal defamation charges against activists and journalists. These instances highlight the frequent use of legal actions to silence critics in Thailand, sometimes resulting in severe consequences, such as journalist Suchanee Cloitre's two-year prison sentence in December 2019.

Existing Legal Framework in Thailand

Thailand's legal framework and measures related to SLAPPs present a noteworthy development. As suggested by Kaewjullakarn and Homket (2023), the adoption of Thailand's National Action Plan on Business and Human Rights (NAP) in 2019 marked a significant milestone, making Thailand the first Asia-Pacific nation with such a dedicated plan. This NAP delineates the responsibilities of both the government and the business sector in safeguarding and upholding human rights, with specific attention to protecting human rights defenders (HRDs) from SLAPPs. Additionally, the UNEP (2023) reported that Thailand's Criminal Procedure Code includes defamation laws under Articles 326-333. However, two anti-SLAPP provisions, Article 161/1 and Article 165/2, were introduced in 2019 to address defamation cases involving those acting in the public interest. Article 161/1 grants the court the authority to dismiss a criminal case if it deems it a SLAPP. However, practical challenges exist due to the lack of a clear definition of "bad faith" and the discretionary nature of the provision (Rawski, 2020).

Despite the improvements above, Thailand still lacks comprehensive legislation to prevent and address SLAPPs, leaving wrongdoers effectively unchecked. While the existing tools like prosecutorial screening and court dismissal could serve as deterrents, they remain underutilized by state actors (Kaewjullakarn & Homket, 2023). Therefore, it is imperative to enact an Anti-SLAPP Law in Thailand (Ngamkaiwan & Sirivunnabood, 2023) or amend existing laws to explicitly define SLAPP suits, streamline their early dismissal (with cost reimbursement), and penalize plaintiffs resorting to such litigation (GLJ-ILRF & ICAR, 2023). Thailand has taken a step in the right direction with the Cabinet's provisional approval of an Anti-Strategic Lawsuits Against Public Participation (Anti-SLAPP) Bill in early 2022. This proposed legislation defines SLAPPs, offers guidance for authorities, and outlines penalties for those abusing SLAPPs, aiming

to discourage such actions (Bangkok Post, 2022). However, although the Bill aims to protect people involved in public affairs, like whistleblowers, from legal action, it mainly focuses on corruption. The lack of a clear definition of public interest might limit its effectiveness, suggesting a need to broaden its scope to cover various SLAPP scenarios, including those related to environmental concerns and labor rights (Kaewjullakarn & Homket, 2023).

Nevertheless, the intricate relationship in the neglect of sustainability by state elites (White, 2009; 2010), the strategic use of ignorance by governments and corporations (McGoey, 2012), and the influence of business elites over state decisions (Ngamkaiwan, 2023) highlights the broader challenge in addressing SLAPPs. Thus, fighting against SLAPPs in Thailand necessitates not only legal reforms but also a comprehensive examination of the structural factors perpetuating these practices and obstructing accountability for environmental harms.

The Relationship between Income Inequality and SLAPPs

After World War II, Thailand underwent a significant economic transformation, shifting from agriculture to manufacturing and services. During the late 1970s and 1980s, the Thai economy transitioned from import-substitution industrialization (ISI) to export-oriented industrialization (EOI) as part of its global economic integration strategy (Warr, 2004). Since 1990, Thailand has actively participated in global production networks involving the cross-border dispersion of production processes within globally integrated industries (Athukorala, 2014; Durongkaveroj, 2023). This period of economic growth led to substantial poverty reduction, making Thailand one of the East Asian economies known for its rapid development, part of a scenario often referred to as the “East Asian Miracle” (World Bank, 1993).

Despite these remarkable achievements, Thailand has grappled with persistent large income inequality, as discussed in Section 3. Although there was a decline in income inequality measured by the Gini coefficient between 1990 and 2020, substantial progress toward economic equality has remained elusive over the past two decades. The widening income gap has generated grievances and fueled demands for redistributive policies. In democratic societies, people have various means to voice their concerns and desires. Economic disparities can give rise to collective political actions, such as nonviolent protests, demonstrations, and even violent conflicts. Recent global protests in countries like Chile and Lebanon in 2019 suggest that rising inequality may have played a role in these events (Baldwin, 2019; Karakaya, 2016; Rodrik, 2012; Solt, 2015).

In the field of economic development, a seminal paper by Hirschman (1973) offers an insightful analytical framework for understanding why societies exhibit varying levels of tolerance for income inequality. His key proposition posits that people tolerate income inequality when they anticipate future improvements in their own economic status. Hirschman (1973) illustrates this concept using a traffic jam analogy in a two-lane tunnel, where individuals in the slower lane feel better when they see movement in the faster lane. This initial gratification is termed the “tunnel effect” (see Figure 3). However, if only the cars in the faster lane continue to move while those in the slower lane remain stuck, discontent and frustration emerge, leading to demands for corrective action to address perceived injustice. This analogy can be applied to societies marked by pervasive inequality, where such disparities can ignite various social movements, potentially necessitating government intervention to suppress them, a situation referred to as a “development disaster.”

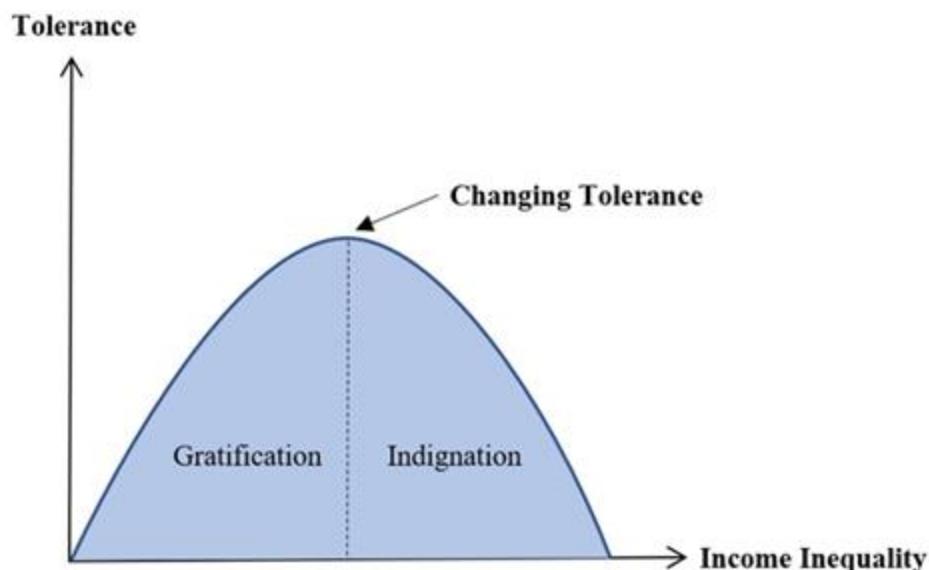


Figure 3. Hirschman's Tunnel Effect

Source: Durongkaveroj (2020)

To measure tolerance for inequality, Nel (2020) and Durongkaveroj (2020) studied preferences for equality using World Values Survey data (Inglehart et al., 2014). Respondents rated their preferences for inequality on a scale from 1 to 10, where 1 represented complete agreement with "income should be made more equal," and 10 represented agreement with "we need larger income differences as incentives for individual effort." Unlike the global

average (World Bank, 2015), Thailand did not exhibit substantial polarization, where the most common responses were at opposite ends of the scale. Responses favoring higher levels of inequality are considered indicative of tolerance for inequality. Between 2005 and 2009, the mean response among Thai participants was 7.07, higher than the global average of 5.07. From 2010 to 2014, the mean decreased dramatically to 5.25, just below the world average of 5.30. In the most recent survey wave from 2017 to 2020, the mean response was 5.48, whereas the world average was 6.02. Thus, Thai respondents exhibited lower tolerance for inequality compared to the world average in the last two survey waves. Figure 4 shows that approximately 9 percent of Thai respondents viewed inequality as an incentive between 2005 and 2009. This figure increased to about 12 percent in the sixth survey wave. In survey wave 7, only 8 percent of respondents rated their preference as equal to 10. Overall, there is suggestive evidence that tolerance for inequality among Thai people has recently declined.

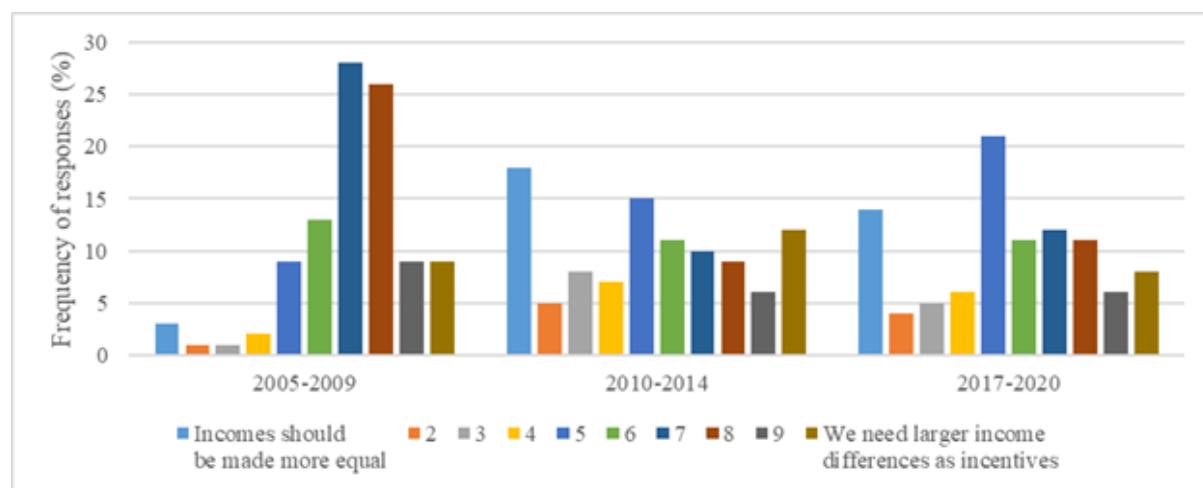


Figure 4. Views of income inequality among Thai people

Source: Haerpfer et al. (2022)

As proposed by Hirschman (1970), declining tolerance for income inequality can motivate the exercise of constitutional rights to free speech, protest, and petitioning the government as a means of expressing grievances and presenting demands. The wealthy may view this public participation as a threat to their businesses. SLAPPs are then used to retaliate against those who voice their opinions and advocate for their interests.

Recently, Thailand has witnessed a growing pattern of legal actions, including SLAPPs, targeting individuals who are victims of human rights violations, community activists, political campaigners, human rights advocates, and journalists (Dutta, 2020). These lawsuits have

become a legal tool to hamper citizen activism and environmental movements, stifle public discourse, and violate human rights (Tassanakunlapan, 2019). Statistics accumulated by the Global Labor Justice-International Labor Rights Forum and International Corporate Accountability Roundtable (GLJ-ILRF & ICAR, 2023) show at least 212 documented SLAPP suits in Thailand between 1997 and May 31, 2019. Additionally, 58 cases from 2014 to 2020 involved criminal defamation or Computer Crimes Act charges against individuals who raised concerns about human rights abuses, government misconduct, or public interest issues. According to the Human Rights Lawyers Association and iLaw (2019), between 2011 and 2018, there was a notable increase in the number of Thai SLAPP cases, rising from less than 10 cases to around 40 cases per year. This increase coincided with the period when Thailand saw persistent income inequality. This increase highlights a potential connection between SLAPP cases and income inequality.

According to the United Nations Development Programme (2023), out of 109 SLAPPs cases between 2001 and 2022, 78 percent of victims were villagers who, in general, have limited access to economic opportunities. Less than 5 percent of SLAPPs victims are either politicians or scholars. Therefore, there is evidence that SLAPP victims are economically disadvantaged compared to the claimants. An interesting finding from this report is that an action that is likely to be the target of SLAPPs is the dissemination of information and expression of views online, including broadcasting evidence of human rights violations in the media (28 percent), followed by participation in rallies or assemblies (21 percent) and engagement in media interviews (15 percent). This paper argues that these actions are how the losers from economic development express grievances according to Hirschman's theory.

Figure 5 shows the data on income inequality measured by Gini coefficient (expenditure) and SLAPPs case. It suggests that Thailand experienced a sustained level of income inequality between 2001 and 2022. During the same period, a surge appears in the number of SLAPPs cases, especially after 2011. The pairwise correlation coefficient between the Gini coefficient and the number of SLAPPs cases is -0.5759, suggesting a negative correlation. However, this negative correlation is primarily driven by the data before 2011. The coefficient becomes positive but not statistically significant when the pairwise correlation using the data between 2010 and 2022 is taken. Thus, it is impossible to conclude that an increase in Gini coefficient is associated with a decrease in SLAPPs cases. Our preferred interpretation

is that a sustained level of inequality in the past two decades provides room for SLAPPs to emerge. Whether income inequality can drive SLAPPs cases is subject to further investigation using sound econometric techniques.

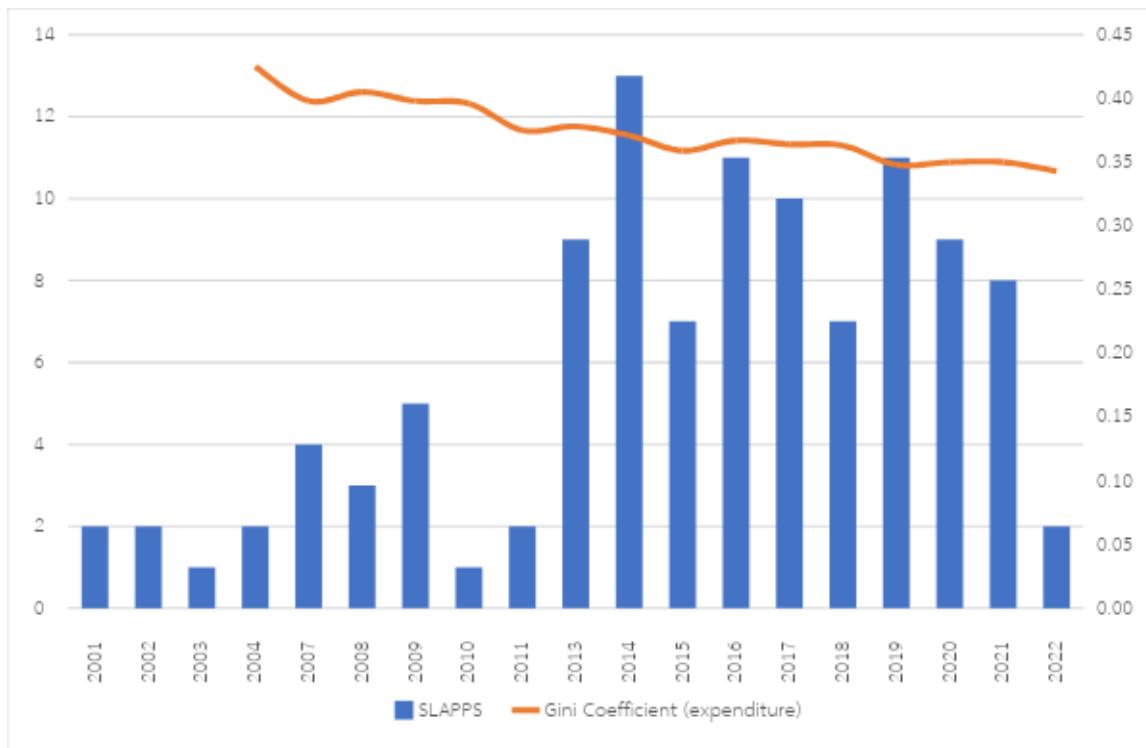


Figure 5. Income Inequality and SLAPPs Cases

Source: Data compiled from United Nations Development Programme (2023) and Office of the National Economic and Social Development Office (2023)

Notes: The number of SLAPPs cases is different from those taken from HRLA (2019) due to different definitions. A SLAPP is defined as any lawsuit filed by the business sector or state-owned enterprises that threatens or hinders the exercise of rights and freedoms. However, the two datasets show a similar trend.

The increasing number of SLAPPs, as demonstrated in this section, raises concerns for two primary reasons. First, SLAPPs silence critical voices, undermining democracy by hindering the exercise of rights to freedom of speech, to freedom of the press, and to protest. A recent report by Freedom House (2023) categorized Thailand as 'not free' in terms of individual freedoms, driven by democratic deterioration and authoritarian tactics such as arbitrary arrests, intimidation, and harassment of pro-democratic activists. The continued use of SLAPPs is likely

to discourage freedom of expression, particularly on topics related to income inequality. Second, SLAPPs entail time-consuming and costly legal proceedings. Victims of SLAPPs, often facing criminal defamation lawsuits, are typically ordinary individuals rather than wealthy people in business. The financial burden on SLAPPs victims weakens their financial standing, exacerbating the wealth gap between the rich and the poor.

Responses and Countermeasures

To address the intersection of SLAPPs and income inequality in Thailand effectively, this section examines key responses and countermeasures under the following headings:

Legal Reforms and Anti-SLAPP Legislation

Legal reforms and the introduction of anti-SLAPP legislation can play a vital role in addressing SLAPPs in Thailand. These measures, aimed at reclassifying SLAPPs and managing costs effectively, have the potential to expedite case resolutions (Kaewjullakarn & Homket, 2023). Notably, countries like Canada, which have implemented anti-SLAPP laws, have seen reduced investments and housing development due to the presence of legal procedures, highlighting the impact of such laws on businesses and communities (Schaufele, 2022). However, it is important to acknowledge potential resistance from parties historically using SLAPPs to stifle dissent (Ngamkaiwan & Sirivunnabood, 2023; Ngamkaiwan, 2023) as well as the need to expand the scope and definition of SLAPPs in order to apply the law effectively. While attempts to decriminalize defamation are commendable, the effectiveness of these changes depends on the authorities' commitment to enforcing the laws and the judiciary's willingness to promptly dismiss frivolous cases (Kaewjullakarn & Homket, 2023). Additionally, imposing punitive measures on SLAPP plaintiffs, such as full indemnity costs and punitive damages, may serve as a deterrent (Wilkins et al., 2010). Striking a balance between discouraging malicious lawsuits and safeguarding legitimate legal actions necessitates careful consideration. The variations in anti-SLAPP legislation among Southeast Asian countries highlight complexities in implementing such measures and underscore the need for harmonized regional standards (UNEP, 2023).

Business Sector Initiatives

As suggested by Kaewjullakarn and Homket (2023), addressing SLAPPs effectively in

Thailand requires proactive steps from businesses and state-owned enterprises. Business associations should facilitate constructive dialogues involving various stakeholders, including the private sector, government, civil society, and human rights defenders to reduce conflict and the number of SLAPP cases. Furthermore, adopting the United Nations Guiding Principles on Business and Human Rights (UNGPs) can help minimize conflicts and adverse impacts. State-owned enterprises should prioritize transparency, refrain from using legal actions against critics, and uphold accountability to build trust and foster a conducive environment for responsible business practices. However, small businesses often face unique challenges when targeted by SLAPP suits. While they can get into legal trouble if they criticize powerful individuals or entities, they may be accused of using SLAPP tactics themselves, adding complexity to their legal and financial burdens (Wells & Marzen, 2016).

Civil Society Organizations, Media, and General Public

Addressing SLAPPs and their connection to income inequality in Thailand necessitates active involvement from civil society, the media, and the general public. Recognizing the importance of anti-SLAPP legislation is fundamental (Wilkins et al., 2010), but a deeper understanding is required to grasp how SLAPPs affect democratic participation and economic disparities in Thailand. For example, Thailand has seen environmental SLAPP cases emerge in response to various environmental protests, including those related to climate change. These cases demonstrate that environmental activists in Thailand can strategically turn legal threats into opportunities, utilizing effective legal defenses or media-related strategies. However, these cases also highlight the significant influence of factors like financial resources, available defenses, and external support for individuals' willingness to challenge SLAPPs in the Thai context. Therefore, fostering a supportive ecosystem for activists and those facing SLAPPs is crucial. As most SLAPP victims are poor, low-income individuals with limited access to resources, this support system can involve initiatives to provide legal assistance and resources, advocate for transparency in legal proceedings, and raise awareness about SLAPP tactics and their detrimental effects on democratic discourse and economic equity in Thailand.

In addition, training programs and practical guidelines for legal practitioners and judicial officials are valuable, but addressing SLAPPs also depends on their reach and influence within Thai legal practice. Establishing non-legal anti-SLAPP best practices within civil society requires coordination among various stakeholders. International organizations can draft guidelines for

regional anti-SLAPP frameworks, but their practical implementation relies on the political will of the Thai government (UNEP, 2023). Without coordinated efforts, the impact of strategic litigation may remain sporadic in Thailand, potentially leading to the unrealized potential of addressing SLAPP-related injustices.

Conclusion

The purpose of this paper is to explore the intricate relationship between Strategic Lawsuits Against Public Participation (SLAPPs) and income inequality in Thailand—a subject that has been inadequately addressed within the Thai context. Despite Thailand's remarkable economic growth in recent decades, persistent income inequality remains a pressing concern, and the emergence of SLAPPs serves as a tool to suppress civic activism and undermine freedom of speech. This study establishes a robust theoretical framework connecting SLAPPs with income inequality in Thailand.

The paper finds that sustained income inequality has coincided with a rise in the number of SLAPPs. Persistent levels of income inequality are viewed as a driving force of SLAPPs. As most SLAPP victims are relatively poor compared to the claimants, the abusive use of SLAPPs undermines freedom of speech, which could, in turn, exacerbate the gap between the rich and the poor. Hence, the authors recommend implementing anti-SLAPP legislation, responsible business conduct, and active involvement by civil society, the media, and the general public as essential measures to mitigate the adverse effects of SLAPPs on democracy and economic fairness.

Looking ahead, this research not only sheds light on an underexplored intersection of SLAPPs and income inequality but also lays the foundation for future investigations. Potential research directions include comparative analyses with other countries, institutional assessments of Thailand's legal and regulatory frameworks, and in-depth examinations of the global and regional dimensions of SLAPPs. These avenues of inquiry aim to deepen our understanding and inform effective strategies for addressing the multifaceted challenge of SLAPPs, contributing significantly to the ongoing discourse in the fields of human rights and civic engagement. This research stands as a vital step toward fostering a more equitable and participatory societal landscape where the adverse impacts of SLAPPs are addressed comprehensively, both in Thailand and on a broader international scale.

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