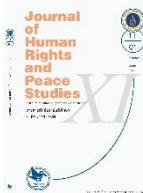




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# The Chilling Effect of SLAPPs on Academic Freedom of University Lecturers in Thailand

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### ABSTRACT

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The increasing use of Strategic Lawsuits Against Public Participation (SLAPPs) in Thailand, particularly after the 2014 military coup, presents a significant threat to academic freedom. This study investigates the chilling effect of SLAPPs on the academic freedom of university lecturers in Thailand, focusing on how these legal actions—often disguised as defamation charges or violations of the Computer Crime Act and Thailand's Criminal Code—are used to suppress critical academic discourse. Through documentary research and case study analysis, this study identifies key impacts on dimensions of academic freedom, including academic expression, financial impact, and institutional autonomy. The findings also highlight that SLAPPs, despite their frequent failure in court, create legal burdens that lead to a chilling effect that stifles intellectual inquiry, fosters self-censorship, and threatens the autonomy of higher education institutions. This study argues that existing legal protections are insufficient to prevent the abuse of SLAPPs and calls for the introduction of comprehensive anti-SLAPP laws. It proposes legal reforms to expedite the resolution of SLAPP cases, minimize the financial burden on victims, and impose significant penalties on those who file meritless lawsuits.

## Introduction

Academic freedom is a cornerstone of intellectual and societal progress, enabling scholars to seek, share, and apply knowledge without fear of censorship, retaliation, or interference. Grounded in human rights law, academic freedom is intertwined with freedom of expression, as recognized in Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right "to seek, receive, and impart information and ideas of all kinds." However, it extends beyond these boundaries, as highlighted in the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel (1997) and the Lima Declaration on Academic Freedom and Autonomy of Institutions of Higher Education (1988), which emphasize its collective and individual dimensions. Unlike general freedom of expression, academic freedom uniquely protects the pursuit of knowledge and the autonomy of higher education institutions, ensuring that intellectual inquiry serves the common good. It is crucial not to conflate or subsume academic freedom under freedom of expression, as its scope and function encompass more than individual expression. Instead, it incorporates the societal right to access information and foster knowledge through teaching and independent research (UCI Law International Justice Clinic, 2020).

However, the state of academic freedom is deteriorating in various regions around the world. In 2021, the Scholars at Risk network recorded 332 attacks on higher education communities across 65 countries and territories, including Thailand (Scholars at Risk [SAR] Europe, 2022). Thailand is a signatory to key international human rights agreements such as the ICCPR and the International Covenant on Social, Economic and Cultural Rights, which provide the foundation for academic freedom through the rights to freedom of expression, education, and scientific advancement, as outlined in various articles within these covenants (UN Treaty Body Database, n.d.). However, Thailand has experienced a decline in academic freedom, as evidenced by major falls in the Academic Freedom Index (AFI) from 2011 to 2022, placing it in the bottom tier (E) (Kinzelbach et al., 2023). Even though its ranking moved from 'E' in 2022 to 'D' in 2023, the academic freedom situation in Thailand is still unsettling (Kinzelbach et al., 2024). Table 1 illustrates Thailand's academic freedom index scores between 2013 and 2023.

Table 1 Thailand's Academic Freedom Index (2013-2023)

Academic Freedom Index	Score			Change over Decade
	2013	2014	2023	
Freedom to Research and Teach	2.28/4	1.06/4	1.93/4	Decreased
Academic Exchange and Dissemination	2.50/4	1.18/4	2.02/4	Decreased

Academic Freedom Index	Score			Change over Decade
	2013	2014	2023	
Institutional Autonomy	1.65/4	1.24/4	1.35/4	Decreased
Campus Integrity	2.50/4	1.56/4	1.61/4	Decreased
Academic and Cultural Expression	2.14/4	1.05/4	1.53/4	Decreased
Overall	0.48/1	0.15/1	0.31/1	Decreased

Source: Adapted from Coppedge et al. (2024); Spannagel & Kinzelbach (2023)

Notes: The AFI evaluates the actual levels of academic freedom using a unique approach developed through a collaboration between researchers at Friedrich-Alexander-Universität Erlangen-Nürnberg (FAU) and the V-Dem Institute. The scale ranges from 0 (low) to 1 (high), with interval-level point estimates transformed back to the original expert coding scale of 0 to 4.

Southall and Cobbing (2001) define academic freedom for university lecturers as the entitlement, unconstrained by prescribed doctrines, to engage in teaching and discussion, conduct research, disseminate research findings, express opinions about their work without institutional censorship, and participate freely in professional or representative academic bodies. Strategic lawsuits against public participation (SLAPPs) threaten academic freedom by silencing scholars from public discourse, inducing self-censorship, diverting resources, damaging reputations, and ultimately depriving the public of evidence-based research and diverse perspectives (Pring & Canan, 1996; Scholars at Risk [SAR] Europe, 2022). These lawsuits typically involve public activities like academic research, journalism, and whistleblowing, using exaggerated legal claims to deter the dissemination of information in the public interest (Ministry of Justice, 2022). It can be said that, ultimately, these lawsuits aim to stifle public participation and suppress "truth-tellers," posing a significant threat to democracy by undermining the fundamental rights of freedom of expression and access to information and creating a chilling effect that deters others from speaking out against abuses (Prather, 2023).

In Thailand, cases of SLAPPs have surged notably since 2013, especially after the 2014 coup, targeting a range of individuals and groups, including political activists, journalists, and academics (Human Rights Lawyers Association, 2019; Kaewjullakarn & Homket, 2023). A prominent case involves defamation complaints by Thammakaset Company Limited against Ngamsuk Ruttanasatian, a human rights defender and lecturer at Mahidol University's Institute of Human Rights and Peace Studies (IHRP). Ngamsuk was accused of defaming Thammakaset by sharing a Fortify Rights news release on IHRP's Facebook page on March 12, 2019 (Fortify Rights, 2019). The case highlights the growing trend of using defamation lawsuits to suppress

advocacy for labor rights and free speech, contributing to a chilling effect on activism and academic expression.

A further case involving Dr. Nattapol Chaiching, a lecturer at Suan Sunandha Rajabhat University, exemplifies how academics in Thailand can face SLAPPs for their research and publications. Along with his publisher and PhD advisor, Dr. Nattapol was sued for THB 50 million (over USD 1.5 million) over an alleged error in his PhD thesis about Prince Rangsit, the forefather of the Rangsit lineage and the subsequent publication of a revised book by Fa Diew Kan (Same Sky Books). This case, filed in March 2021, is part of a broader trend of SLAPPs against individuals who challenge powerful interests. Furthermore, the investigation and censorship of Dr. Nattapol's thesis by Chulalongkorn University since 2019 reflect institutional pressures that compound legal threats (Winichakul & Haberkorn, 2021).

In Thailand, these actions are facilitated by vague and expansive provisions in the Criminal Code, particularly Sections 326 and 328, which address defamation and allow for criminal prosecution of individuals accused of damaging another's reputation, even in cases where the defamation is not clearly defined. These sections are often used to target individuals who challenge powerful entities, including academics, to silence dissent. Additionally, the Computer Crimes Act (2007, amended in 2017) further compounds these legal challenges by criminalizing certain forms of online speech, particularly content deemed defamatory or harmful to public order. This law has been increasingly leveraged to restrict freedom of expression on digital platforms, where many human rights defenders (HRDs) and activists voice their concerns. Together, these legal frameworks create a chilling effect, undermining academic freedom, suppressing open debate, and stifling critical inquiry, as individuals and institutions are deterred from challenging the status quo for fear of legal consequences.

This study aims to explore the chilling effect of SLAPPs on the academic freedom of university lecturers in Thailand and propose effective strategies for their prevention and mitigation. The significance of this study lies in its examination of the growing threat SLAPPs pose to academic freedom in Thailand, a critical issue for scholars, educators, and activists. These lawsuits undermine not only academic inquiry and open discourse but also fundamental human rights, including freedom of expression, as guaranteed by the ICCPR of which Thailand is a signatory. The study aims to uncover their chilling effect on public participation and intellectual autonomy by investigating the legal and institutional frameworks facilitating such lawsuits. Furthermore, the research seeks to contribute to the global dialogue on safeguarding academic freedom by offering practical recommendations for preventing and mitigating the impact of SLAPPs. Ultimately, the findings aim to inform policy reforms in Thailand and provide valuable

insights for other countries facing similar challenges in human rights and academic freedom protection.

## **Research Objectives**

This study aims to examine the chilling effect of strategic lawsuits against public participation (SLAPPs) on the academic freedom of university lecturers in Thailand and to propose policy recommendations for their prevention and mitigation.

## **Research Methodology**

This study employs documentary research to identify, collect, and analyze relevant literature and documents on SLAPPs, academic freedom in Thailand, and related legal frameworks. This approach provided foundational material, including case studies, to understand the phenomenon under investigation. Data were collected from secondary sources such as international and national laws, policies, textbooks, journal articles, news reports, databases, organizational reports, and court judgments in both Thai and English. These data were categorized into themes, including the chilling effect of SLAPPs, SLAPPs in the Thai context, the impacts of SLAPPs on academic freedom, selected case studies, legal frameworks with their associated loopholes, and recommendations on legal reforms.

The case studies are selected to show the impacts of SLAPPs on the academic freedom of Thai university lecturers after the 2014 military coup in the different dimensions. The case studies were selected based on the following criteria: (1) they involve public universities among Thailand's top 10 universities (Scimago Institutions Rankings, accessed 24 January 2025), (2) the court judgments are final, and (3) they provide clear examples of SLAPPs impacting the academic freedom of university lecturers, not students. However, this study is limited by the lack of comprehensive data and challenges in quantifying and categorizing SLAPP cases against university lecturers. Many cases were dismissed before reaching the state prosecutor, while others were dropped at various stages or resulted in diverse court outcomes. The absence of detailed records necessitated focusing on selected case studies to provide deeper insights into the phenomenon.

## **Findings**

The findings of this study reveal the multifaceted and far-reaching implications of SLAPPs on academic freedom in Thailand. Drawing from documentary evidence and case study analysis, the results are organized into six thematic sections. These include an overview of the chilling effect of SLAPPs, the legal and socio-political context in Thailand that enables their use, the specific ways SLAPPs undermine academic freedom, and the convergence of these issues as seen through in-depth case studies of Thai university lecturers. The final sections examine the structural legal loopholes that allow such lawsuits to persist and provide an analysis of proposed legal reforms and anti-SLAPP measures.

### **The Chilling Effect of SLAPPs**

Coined by Pring and Canan (1996), strategic lawsuits against public participation (SLAPPs) are legal actions initiated against individuals or groups expressing concerns regarding politically or socially significant issues, such as unlawful working conditions, environmental consequences, or instances of police brutality. As an extension of the original definition, Hanna (2024) comprehensively defined SLAPPs as claims made against individuals or organizations voicing concerns on matters of public interest; these lawsuits, often lacking substantial merit or claiming damages to an insignificant degree compared to the public interest in protecting free expression, are typically initiated to intimidate or silence critics through “legal burdens” rather than to resolve legitimate legal disputes. A valid defense is usually reasonably clear early in the proceedings, highlighting the improper collateral purpose of the claim.

Typically, the party filing the lawsuit, known as the SLAPPER, is either a governmental body or a corporation. This party employs existing legal statutes, like those related to defamation, to intimidate individuals genuinely voicing their concerns (Human Rights Lawyers Association, 2019). According to a report published by the Business & Human Rights Resource Centre, SLAPPs include legal actions brought or initiated by private parties, such as companies, against individuals or organizations engaged in acts of public participation. These acts include public criticism or opposition campaigns on human rights, social justice, and environmental protection (Zuluaga & Dobson, 2021). Maíko (2024) also pointed out that SLAPPs are used not only by governments but also by powerful private entities like corporations. These entities employ SLAPPs to create a chilling effect, leading to significant power imbalances and discouraging public involvement in democratic discourse (Shapiro, 2010).

According to the United Kingdom's Ministry of Justice (2022), SLAPPs are characterized

by two primary components. First, these lawsuits focus on activities related to public involvement, including academic research, journalism, and whistleblowing, especially regarding socially pertinent matters like corruption. Second, they aim to hinder the circulation of information beneficial to the public interest by employing intimidating legal measures with overstated claims. Other characteristics of SLAPPs are highlighted in the work of Prather (2023). First, they burden the victims with protracted legal proceedings, high financial costs, and extensive paperwork. Targeting public watchdogs such as journalists and activists, SLAPPs impose heavy financial and psychological burdens on their victims, often dragging on for years and straining the court system (Prather, 2023). Johnson and Duran (2012) similarly argue that SLAPPs intimidate the speaker through costly and protracted legal proceedings and hinder their attempts to sway public opinion. Second, Prather also characterizes them as claiming aggressive or disproportionate remedies, such as demanding extensive monetary damages or imposing severe sanctions like long prison sentences, far exceeding the conduct targeted by the lawsuit (Prather, 2023).

According to Hirschman (1970), declining tolerance for income inequality often leads individuals to exercise their constitutional rights to free speech, protest, and petition the government to address grievances. Wealthy individuals, perceiving this public participation as a threat to their interests, may use SLAPPs to retaliate against those who advocate for change. The rise in SLAPPs is concerning as it silences critical voices and undermines democratic freedoms, while also imposing financial burdens on victims, thus exacerbating economic inequalities and weakening their financial stability (Freedom House, 2023).

In summary, SLAPPs, despite often failing in court, aim not for legal success but to intimidate and divert public attention from social issues, discouraging community action (Environmental Law Institute & the Southwest Network for Environmental and Economic Justice, 1997). As a result, the chilling effects of SLAPPs manifest at both the individual and societal levels. They financially burden targets with limited resources, strain their mental well-being, and divert their time and energy away from the underlying political issues. This burden leads to a broader "ripple effect," deterring others from speaking out and depriving the public of crucial information necessary for informed opinion on public matters (Rucz, 2022).

In Thailand, various organizations have sought to define SLAPPs, with the Human Rights Lawyers Association (HRLA), a non-governmental organization formed by lawyers and human rights advocates in Thailand, describing them as lawsuits that threaten the exercise of constitutional rights related to public concerns. The definition is similar to that of the International Commission of Jurists, which characterizes SLAPPs as legal actions aimed at silencing public criticism or opposition to certain activities of those initiating the lawsuits. Unlike in the United

States, where SLAPPs are primarily civil cases due to constitutional protections under the First Amendment, Thailand's legal framework allows speech, expression, and assembly to be treated as criminal offenses. As a result, most SLAPPs in Thailand are criminal cases, commonly filed under defamation provisions in Sections 326 and 328 of the Criminal Code, reflecting a stark difference in how such lawsuits are utilized to stifle dissent (Kaewjullakarn & Homket, 2023). In other words, in Thailand, SLAPPs often result in jail time rather than fines. This trend underscores the urgent need to address the chilling effect of SLAPPs on free expression and public participation in the country.

### **SLAPPs in the Thai Context**

Across ASEAN, the increasing prevalence of SLAPPs has raised serious concerns, particularly the misuse of defamation laws to intimidate and silence HRDs (Protection International, 2023). In Thailand, in particular, SLAPPs are often employed to stifle dissent by framing activists, journalists, and critics as threats to national security and terrorists, thereby justifying the use of exceptional measures against them. SLAPPs in Thailand increased after the 2014 coup due to heightened political repression under the 2017 constitution, which was crafted by the NCPO junta. The regime's use of laws such as *lèse-majesté* (Section 112) and the Computer Crime Act (CCA) to target critics, including those involved in democratic protests, contributed to a surge in legal actions against individuals exercising their rights to free expression and assembly (Human Rights Watch, 2023). Meanwhile, Kaewjullakarn and Homket (2023) reported approximately 109 SLAPP cases between 1997 and 2022, initiated mainly by the business sector and state-owned enterprises (p. 10). Reports show that Thailand has seen an increase in SLAPPs in response to activism and journalism exposing alleged misconduct by Thai companies (Article 19, 2021; International Commission of Jurists [ICJ], 2022; Kangkun, 2023). Despite international human rights standards that protect freedom of expression and dissent, the Thai legal system often imposes harsh penalties on critics, including against public officials, contrary to the principle that they should tolerate more criticism than private individuals (Ferstman, 2024).

The Human Rights Lawyers Association (2019) also highlighted a notable surge in SLAPPs in Thailand since 2013, particularly intensifying after the 22 May 2014 coup, with a total of 212 cases identified from 1997 to May 2019. Of these, the majority (196 cases) were criminal, with 153 cases filed by investigating officers and 59 initiated by private corporations as the injured parties. The report indicates that most SLAPP charges were directed primarily against HRDs,

community groups, and political activists. Notably, 25 percent of these cases stemmed from online expression, 15 percent from attending rallies, 4 percent from sharing news, 23 percent from other advocacy activities, and 1 percent from publishing research (Human Rights Lawyers Association, 2019; Protection International, 2023).

Between 2014 and 2020, Article 19 (2021) identified 58 cases in which criminal defamation or CCA charges were used to target individuals who raised concerns about human rights abuses, government misconduct, or other issues of public concern. One hundred sixteen individuals faced charges in these cases, and four (3%) were academics. In November 2015, Thai PBS and four journalists faced criminal defamation charges from Tungkum Ltd. for reporting on environmental damage in Loei Province, though the case was later dismissed (Fortify Rights, 2018). Another example is when Thammakaset Co. Ltd., a Thai chicken farm operator, initiated multiple SLAPPs against migrant workers and activists in 2016 following a labor violation complaint, including defamation and theft charges, illustrating the broader use of legal actions in Thailand to suppress dissent and silence critics (Dutta, 2020).

Kaewjullakarn and Homket (2023) reported that a significant majority of SLAPP victims in Thailand are economically disadvantaged citizens, reflecting Hirschman's theory of economic losers expressing their grievances (Ngamkaiwan et al., 2023). Additionally, the Committee on the Elimination of Discrimination against Women (CEDAW) has expressed serious concern over the targeting of women HRDs, including Muslim women in the southern border provinces, who advocate for land rights, environmental protection, and the rights of marginalized groups. These women increasingly face lawsuits, harassment, violence, and intimidation by the authorities and business enterprises, further highlighting the intersectional vulnerabilities exacerbated by SLAPPs in the region (Kaewjullakarn & Homket, 2023). In 2018, the Network for Civilian Protection and Freedom of Expression called on the Internal Security Operations Command (ISOC) Region 4, which operates in the southern border provinces, to cease all forms of intimidation, including SLAPP-like actions against the media and HRDs (Voicefromthais, 2018).

Panjor (2024) noted that, in Thailand's Deep South, the use of SLAPPs has become a troubling mechanism to suppress dissent and silence youth movements addressing local community issues. Members of student groups and youth networks in the southern border provinces often face harassment and intimidation from state authorities under the guise of maintaining national security. For instance, young reporters raising awareness about violence in their communities encounter police and military scrutiny frequently. Their information is subjected to strict checks, with authorities often forcing them to delete social media posts or align their reports with state narratives. Those who refuse to comply risk being targeted by SLAPPs or other

forms of legal action, further restricting their ability to engage in political or social advocacy. This suppression extends to academic freedom, as students and researchers in the region face significant obstacles in documenting and analyzing local issues without fear of reprisal. These practices also reflect a broader pattern of rights violations, where SLAPPs are used alongside special laws and military harassment to undermine participation in political discourse and engagement in scholarly inquiry.

### **Impact of SLAPPs on Academic Freedom**

Theoretically, academics have a right and obligation to contribute to public discourse within their areas of expertise, as emphasized by the Bonn Declaration on Scientific Freedom, which supports engagement with society to counter disinformation (Scholars at Risk [SAR] Europe, 2022). Taking the European Union as an example, EU law strongly safeguards academic freedom, as outlined in Article 13 of the EU Charter of Fundamental Rights, which guarantees freedom in the arts and scientific research. The European Court of Justice also referenced soft law documents, such as Recommendation 1762 (2006) from the Parliamentary Assembly of the Council of Europe and UNESCO's Recommendation concerning the status of higher-education teaching personnel, to affirm that academic freedom includes protections against pressure mechanisms on scholars and researchers (Bodnar & Gliszczynska-Grabias, 2023). A report conducted by All European Academies (ALLEA, 2021) highlights the importance of scientists engaging with the public, but the risk of legal harassment may discourage such involvement. The influence of private sector actors on academic freedom, particularly through SLAPPs, remains a concern in several EU Member States, prompting the European Parliament and Council to reach a provisional agreement on new EU rules to protect against such strategic lawsuits as of 30 November 2023 (European Parliamentary Research Service [EPRS], 2024).

Vrielink et al. (2023) state that academic freedom embodies three crucial dimensions. First, it involves extensive individual freedoms of expression for all academic community members, including the right to study, teach, conduct research, freely express opinions, and engage in professional activities beyond academic roles. Second, it encompasses the collective autonomy of academic institutions, such as universities and faculties, to safeguard and promote academic freedom in both internal and external affairs, shielded from undue external interference. Last, public authorities must respect, protect, and actively promote academic freedom, ensuring effective enjoyment through appropriate measures. Similarly, Wajngurt (2019) noted that academic freedom entails the autonomy for faculty to teach, research, and communicate facts

without external interference, allowing educators to explore and express ideas without fear of suppression, job loss, or disciplinary actions from the university or external authorities.

Furthermore, the UCI Law International Justice Clinic (2020) categorized academic freedom into three key dimensions: intramural, extramural, and off-topic conduct. Intramural activities refer to traditional academic pursuits within the classroom or university setting, such as a professor choosing lecture content or a student selecting a research topic, which is core to academic freedom. Extramural activities involve actions undertaken in a professional capacity outside the classroom, such as speaking publicly or publishing on a topic within one's field of expertise, and these, too, are protected under academic freedom. Off-topic activities that include personal actions or expressions as a private citizen, like posts on social media, are generally covered by broader terms of freedom of expression rather than academic freedom.

However, these distinctions can sometimes be blurred, particularly between extramural and off-topic conduct, leading to misconceptions that academic freedom is confined to classroom activities. This blurring is particularly problematic in contexts where SLAPPs are used, as academics expressing professional opinions in public spaces may be unfairly framed as engaging in off-topic conduct, exposing them to legal action and undermining their right to protected extramural expression. This view conforms to Zackari's (2023) argument that academic freedom, essential for quality research and teaching, faces threats not only from institutional confines but also in the broader societal and online spheres, necessitating the protection of scholars' rights beyond campus boundaries.

Therefore, SLAPPs can prevent academics from publishing or speaking publicly, limiting the spread of new knowledge and ideas, and allowing certain narratives to go unchallenged. These lawsuits can lead to self-censorship, depriving the public of evidence-based research, and burdening scholars with time-consuming litigation that distracts from their work and hampers their ability to secure grants. SLAPPs, often used by state actors and commercial stakeholders with vast resources, thus serve as effective tools to silence critics and control information, emphasizing the need for robust protections for academic freedom (Johnson & Duran, 2012; Scholars at Risk [SAR], 2022). The increasing influence of illiberalism, where post-truth contexts distort freedom of speech, also allows the political, social, and empirical manipulation of facts and evidence, leading to the decline of democratic free speech and academic freedom (Oleksiyenko & Jackson, 2021). Based on Maassen et al.'s central dimensions of and basic conditions for academic freedom (2023), it can be observed that SLAPPs impact academic freedom in five major areas: freedom to conduct research, freedom to teach and study, freedom of academic expression, institutional autonomy and self-governance, and labor and financial conditions (see Table 2).

Table 2 Impacts of SLAPPs on Academic Freedom

Impacts	Descriptions
Freedom to Conduct Research	SLAPPs can disrupt researchers' ability to follow their research agendas without undue interference, imposing legal and financial constraints that limit their investigative freedom.
Freedom to Teach and Study	Such lawsuits can influence academic staff's teaching agendas and students' study preferences by creating a climate of fear and self-censorship.
Freedom of Academic Expression	SLAPPs threaten scholars' ability to freely express and publish their findings, potentially deterring them from addressing sensitive or controversial issues due to fear of legal repercussions.
Institutional Autonomy and Self-Governance	The use of SLAPPs can undermine the autonomy of higher education institutions by compelling them to prioritize legal defenses over academic priorities, and by interfering with self-governance through external pressures.
Labor and Financial Conditions	The financial burden of defending against SLAPPs can impact labor conditions, particularly for non-tenured staff, and may affect funding conditions, thereby restricting academic freedom and influencing research and teaching directions.

Source: Adapted from Maassen et al. (2023: 13-14, 79-80)

### Convergence between SLAPPs and Academic Freedom in Thailand

The current situation of academic freedom in Thailand is marked by a concerning trend where scholars and students face increasing SLAPPs. The use of SLAPPs against scholars, students, and members of the higher education community, particularly when expressing criticism of the monarchy or participating in democratic reform movements, has been prevalent through the use of defamation lawsuits and selective enforcement of criminal codes (Scholars at Risk [SAR], 2021). Phakdeewanich (2017) argued that executives of top universities in Thailand, both public and private, have been heavily involved in the pro-military, royalist People's Democratic Reform Committee (PDRC), and some continue to serve the military regime. In 2020, the Thai Academic Network for Civil Rights (TANC), with the support of over 350 academics, called on Minister of Higher Education Anek Laothamatas to advocate for students' freedom to express their opinions and for academics to be allowed to teach without political restrictions (The Nation, 18 August 2020). In this section, several case studies are selected to show the impacts of SLAPPs on the academic freedom of Thai university lecturers after the 2014 military coup in the

different dimensions described in Table 2. The case studies were selected based on the following criteria: (1) they involve public universities among Thailand's top 10 universities (Scimago Institutions Rankings, 2025), (2) the court judgments are final, and (3) they provide clear examples of SLAPPs impacting the academic freedom of university lecturers, not students.

### **Case Study 1: Nattapol Chaiching, Chulalongkorn University**

The case of Dr. Nattapol Chaiching illustrates how SLAPPs erode academic freedom, particularly in the areas of freedom to conduct research, academic expression, institutional autonomy, and financial conditions. As mentioned earlier in this article, Dr. Nattapol, a historian and academic, faced legal and institutional harassment over his PhD thesis and subsequent book, which critically examined the monarchy's political role and its relationship with the military in post-World War II Thailand. Despite the thesis being passed with distinction, royalist scholars and the Rangsit royal clan targeted him over a minor, unintentional factual error unrelated to his overall argument (Winichakul & Haberkorn, 2021). The lawsuit, rather than addressing genuine harm, appears aimed at suppressing critical examination of the monarchy. Compounding this, Chulalongkorn University censored his thesis and failed to defend his work, bowing to political pressure instead of upholding academic independence.

In 2024, the Civil Court dismissed a lawsuit against historian Nattapol Chaiching and his publisher, Same Sky Books, regarding two books derived from Nattapol's PhD thesis on Thai politics during the Cold War, ruling that the plaintiff lacked the legal standing to pursue the case. Thanapol Eawsakul, editor-in-chief of Same Sky Books, noted that the case, which could have been dismissed in 2021, dragged on unnecessarily, wasting time and resources. He warned that such lawsuits harm academic freedom and risk fostering self-censorship due to the personal and financial toll they impose (Prachatai, 2024).

Similar to Chaiching, Assoc. Prof. Puangthong Pawakapan faced challenges to her academic freedom at Chulalongkorn University, where in 2024, the institution canceled a seminar and book launch for her research on the Thai military's role in society. Despite her award-winning book receiving academic recognition, the university's decision to move the event off-campus followed pressure from the Internal Security Operations Command (ISOC), which criticized her work and called for its ban. Although she has not yet been charged with any lawsuit, the university's submission to political influence undermines its role as a bastion of academic inquiry, reinforcing the chilling effect on scholarly research and public discourse in Thailand.

### **Case Study 2: Charnvit Kasetsiri and Yukti Mukdawijitra, Thammasat University**

The case of Professor Emeritus Dr. Charnvit Kasetsiri exemplifies the impact of SLAPPs on academic freedom, particularly in the dimension of academic expression. Prof. Kasetsiri, a historian and former president of Thammasat University, faced charges under Thailand's CCA for sharing Facebook posts critiquing the Prime Minister's wife and misidentifying her handbag as a luxury item. Although Prof. Kasetsiri corrected his initial post and clarified the misunderstanding, the charges proceeded, raising concerns about the misuse of legal mechanisms to silence dissent (The Nation, 2018). While his Facebook posts fall into the realm of extramural conduct, they represent an academic's engagement with societal issues, reflecting his expertise and critique of Thai elites. The charges against him, despite his correction, underscore how SLAPPs blur the boundaries between extramural and off-topic conduct (UCI Law International Justice Clinic, 2020). The legal battle lasted around two years, ultimately ending when the public prosecutor decided not to proceed, as his actions did not meet the criteria outlined in the CCA (Thai Lawyers for Human Rights [TLHR], 2021).

This case is similar to that of Yukti Mukdawijitra, a lecturer at Thammasat University, who also faced charges under the CCA and the royal defamation law for a Twitter post in 2021. Yukti Mukdawijitra's post, which responded to a rumor about the King's health, was construed as a threat against the monarchy (Prachatai, 2022). Yukti was released on bail with THB 200,000 in security on the condition that he not travel abroad without the court's approval (Prachatai, 2024). In both cases, legal ambiguity was exploited to frame public commentary by academics as personal misconduct, deterring them from participating in public discourse and discouraging fellow academics from expressing critical opinions or engaging in politically sensitive discussions, even when these are grounded in their professional knowledge (BBC News Thai, 2018). This chilling effect frequently results from widespread self-censorship due to the use of SLAPPs by authoritarian regimes and right-wing groups, who leverage legal actions to intimidate critics and undermine democratic principles (Liang, 2015).

### **Case Study 3: Ngamsuk Ruttanasatian, Mahidol University**

The case of Ngamsuk Ruttanasatian illustrates the detrimental impacts of SLAPPs on academic freedom, particularly in the areas of academic expression and financial conditions. Ngamsuk, a human rights defender and lecturer at the Institute of Human Rights and Peace Studies, Mahidol University, was targeted by Thammakaset, a Thai poultry company, for sharing

a Fortify Rights news release on her institute's Facebook account which regularly shared issues regarding human rights and peace. The company's legal action, which accused her of criminal defamation under Thailand's Penal Code (Arts. 326 and 328), carried a potential sentence of up to two years in prison and a fine of up to 200,000 Thai baht (approximately USD 6,000). This lawsuit was part of a broader strategy to suppress public discussion of human rights abuses linked to its operations, as Thammakaset has filed at least 37 complaints against 22 HRDs since 2016, underlining the frequency with which such legal tactics are used to stifle dissent (Fortify Rights, 2019).

Moreover, the case underscores the legal and financial burdens that SLAPPs impose on those involved. Ngamsuk, like many other targets of SLAPPs, endured prolonged legal battles that drained her personal and institutional resources. Despite the Bangkok Criminal Court dismissing the case against her in 2019, the Court of Appeal and the Supreme Court upheld the decision to proceed with the charges until the case was conclusively dismissed in 2021 (Fortify Rights, 2021). This prolonged legal process can be financially devastating and emotionally taxing, leading to what is referred to as a chilling effect on future academic expression.

#### **Case Study 4: Sorayut Aiemueayut and Thasnai Sethaseree, Chiang Mai University**

The case of art lecturers at Chiang Mai University in October 2021 starkly illustrates the impact of SLAPPs on academic freedom, particularly in relation to the freedom to teach and study, freedom of academic expression, and institutional autonomy. Two lecturers and their students were charged with trespassing after they protested the university's prohibition of politically-themed art exhibitions. These charges directly resulted from their attempts to assert their right to academic expression, which was stifled by university administrators, including Asawinee Wanjing, the Dean of the Faculty of Fine Arts, who deemed some of the student artworks "politically inappropriate." The censorship of these projects, some of which addressed social and political issues, raised serious concerns about the academic freedom restriction that undermines the students' ability to present their final theses and complete their education. Thai Lawyers for Human Rights (TLHR) reported that the two lecturers, along with graduate Yotsunthorn Ruttapradid, were indicted on trespass and property destruction charges after the public prosecutor, initially set to dismiss the case, was overruled by the Commissioner of Provincial Police Region 5 (Prachatai, 2024).

Moreover, the case highlights the struggle for institutional autonomy when university administrators, led by Asawinee Wanjing, were found to be actively suppressing academic

freedom, even within the university's own Art Centre. The university's interference with students' right to exhibit their works and the subsequent legal action against the students and lecturers reflected a broader issue of institutional governance, where the university's leadership appeared to prioritize political conformity over academic integrity (Prachatai, 2022; Wong, 2021). This interference is similar to what happened at Mahidol University, where there was an administrative investigation into faculty members' criticism of the military junta in 2017 (Associated Press, 2017).

In summary, the case studies presented highlight Thailand's widespread erosion of academic freedom, driven by SLAPPs and institutional interference that hinder scholars' ability to conduct research, teach, and express their views freely. Each case underscores how legal actions or political pressures are used to suppress critical academic work, fostering a chilling effect that stifles intellectual inquiry. The cases reveal that these infringements primarily impact certain dimensions of academic freedom—such as academic expression (not limited to socio-political but also socio-economic issues, as shown in Case 3), institutional autonomy, and financial conditions. Although institutional autonomy was not affected in Cases 2 and 3, the cases demonstrate that scholars are not safe online, as they were charged under the CCA for sharing comments on social media. These show that the consequences of SLAPPs extend beyond the individuals involved, threatening the autonomy of higher education institutions and the academic community at large. These cases emphasize the urgent need for stronger protections for academic freedom, ensuring that scholars can engage in research and expression without fear of legal or institutional reprisals. Table 3 illustrates the specific impact of SLAPPs on different dimensions of academic freedom across the case studies.

Table 3 Comparison of the Impact of SLAPPs on Academic Freedom across Case Studies

Case Study	Research	Teaching & Studying	Academic Expression	Institutional Autonomy	Financial Conditions
1	✓		✓	✓	✓
2			✓		✓
3			✓		✓
4		✓	✓	✓	✓

Source: Developed by Author

Remarks: It should be noted that issues related to self-governance and labor conditions were less evident in these cases. This tendency is likely due to the cases' focus on legal harassment and institutional censorship rather than on structural issues like governance or direct labor-related concerns, which might require further exploration in future studies. Additionally, the marks in Table 2 are based solely on the data presented in this article, and each case may represent additional dimensions of academic freedom.

### Legal Frameworks and Loopholes

Thailand has made notable progress in addressing SLAPPs through its legal framework. As Kaewjullakarn and Homket (2023) highlighted, the introduction of Thailand's National Action Plan on Business and Human Rights (NAP) in 2019 was a significant milestone, making Thailand the first country in the Asia-Pacific region to implement such a plan. This NAP outlines the obligations of both the government and businesses in protecting human rights, with a focus on safeguarding HRDs from SLAPPs. Moreover, the United Nations Environment Programme (2023) noted that Thailand's Criminal Procedure Code includes defamation laws under Sections 326-333. In response to defamation cases involving public interest actions, two anti-SLAPP provisions—Sections 161/1 and 165/2—were added in 2019. Section 161/1 allows courts to dismiss criminal cases deemed SLAPPs, but challenges persist due to the ambiguous definition of "bad faith" and the discretionary application of the provision (Rawski, 2020). The court dismissals of most cases presented in the previous section also prove the provision's ambiguity, as inconsistent interpretations of "bad faith" have led to varied outcomes.

Previous studies (Global Labor Justice-International Labor Rights Forum [GLJ-ILRF] and International Corporate Accountability Roundtable [ICAR], 2023; Ngamkaiwan et al., 2023; Zorob, 2020) indicate that Thailand must develop comprehensive legislation and mechanisms to prevent and address SLAPPs. While Thailand has existing mechanisms to handle SLAPPs, including the prosecutor's authority to order screening or non-prosecution and the provision under Section

161/1 of the Criminal Procedure Code empowering the court to dismiss cases filed in bad faith or with distorted facts by private individuals, the study reveals that none of these governmental entities has utilized their power to deter SLAPPs (Kaewjullakarn & Homket, 2023). Moreover, no legal provisions facilitate the prompt resolution of such cases. Additionally, the absence of measures within the law to hold SLAPP filers accountable for unsuccessful cases allows them to act without facing consequences. In Québec, for example, the burden of proof is placed on the filer to justify the legitimacy of the legal action instead of the SLAPP victims (Weil, 2009).

The Justice Fund in Thailand, established by the Justice Fund Act B.E. 2558 (2015), aims to provide legal assistance to individuals involved in litigation and promote public legal awareness. However, SLAPP targets report challenges in accessing its support. Several people did not prioritize state aid mechanisms due to the complexity of the process, biased provincial judicial rulings, and lack of awareness of or confidence in the Justice Fund and instead sought assistance from human rights lawyers or raised funds independently (Kaewjullakarn & Homket, 2023). Moreover, there has been no established practice or legal interpretation in Thailand that provides remedies in cases of contempt of court. If a person accused of contempt of court is later found not guilty by a higher court, they receive no compensation under Thai law (Engchanil, 2020). Mediation can be an effective method to resolve SLAPPs promptly. Still, it must ensure voluntary participation and fairness among all parties, avoiding coercion to silence critics, which could replicate the silencing effect of SLAPPs (Kaewjullakarn & Homket, 2023).

Technically, it is crucial for Thailand either to implement a specific Anti-SLAPP Law (Ngamkaiwan & Sirivunnabood, 2023) or to amend existing legislation to clearly define SLAPPs, facilitate their prompt dismissal with cost reimbursement, and penalize plaintiffs who misuse such lawsuits (Global Labor Justice-International Labor Rights Forum [GLJ-ILRF] and International Corporate Accountability Roundtable [ICAR], 2023). The Cabinet's provisional approval of an Anti-Strategic Lawsuits Against Public Participation (Anti-SLAPP) Bill in early 2022 represents progress, as it defines SLAPPs, provides guidance for authorities, and sets penalties for misuse (Editorial, 2022). However, this Bill predominantly targets corruption and lacks a comprehensive definition of public interest, which may limit its effectiveness. Its scope must include various SLAPP scenarios, such as those involving environmental and labor rights (Kaewjullakarn & Homket, 2023).

It is important to continue monitoring the implementation of the Draft Royal Decree on Research Criteria and Ethical Standards for Research that Conflicts with Religious, Cultural, Traditional, or Public Moral Principles, proposed by the National Higher Education, Science, Research and Innovation Policy Council and approved by the Cabinet in August 2024 (Prachatai,

2024). The decree aims to establish a Committee to review research proposals to ensure they do not violate these values, with the authority to halt any research and funding if deemed problematic. It outlines problematic research that contradicts or undermines core religious principles, incites contempt or mockery of local or national culture, or violates significant moral standards. It also targets research that could cause discrimination, social division, or harm human dignity, equality, rights, or freedom. Additionally, the Committee has the authority to identify any other inappropriate research. If there is reasonable doubt that a research project may violate the decree's principles, it must be submitted for committee review within 60 days, with a possible extension of up to 60 additional days. The Committee may halt the research and suspend funding if it conflicts with religious principles, or allow it to continue under specific guidelines; failure to comply could result in further action, including the revocation of grants.

The draft decree has generated concerns due to its vague criteria for selecting "highly qualified experts" in research ethics and the broad authority granted to the Committee to define what constitutes a violation of ethical standards. Critics worry that these ambiguities could lead to inconsistent interpretations and enforcement, complicating academic work further (Prachatai, 2024; Malaniyom, 2024). Despite the Cabinet's withdrawal of the draft for reconsideration in response to public backlash, debates about academic freedom in Thailand continue (Isra News Agency, 2024). Scholars have questioned the necessity and constitutionality of the decree. Experts like Torpong Kittiyupong have noted that the draft stems from Section 33(2) of the Science, Research and Innovation Promotion Act of 2019, which allows the Office of Science, Research and Innovation Policy to set research guidelines that may conflict with religious, cultural, or moral principles. This provision, he argues, may be at odds with Thailand's Constitution, which safeguards academic freedom while requiring respect for public morals and diverse opinions (Udchachon, 2024). As long as Section 33(2) remains in effect, similar decrees may be reconsidered by the Cabinet in the future. By potentially stifling controversial or critical research under the guise of protecting religious, cultural, or moral principles, the decree could undermine open academic inquiry and public debate, acting like SLAPPs to deter individuals from exercising their right to free expression.

Overall, Thailand violates its international obligations to academic freedom by permitting SLAPPs, which deter public criticism and infringe on freedoms protected under the ICCPR and the Constitution of the Kingdom of Thailand. These lawsuits create a chilling effect on freedoms of expression (Article 19), peaceful assembly (Article 21), and association (Article 22), which Thailand is required to protect under its accession to the ICCPR. Despite constitutional guarantees such as Section 34 (freedom of expression), Section 36 (liberty of communication),

Section 41 (right to petition), Section 42 (freedom of association), and Section 44 (freedom of assembly), Thailand's allowance of SLAPPs contradicts its duty under the ICCPR to ensure protection from private actions that impair these fundamental freedoms (International Commission of Jurists [ICJ], 2020). This failure to adhere to the principles of legality, necessity, and proportionality mandated by international law undermines both the ICCPR and the constitutional rights of individuals. The potential harm of the Draft Royal Decree on Research Criteria and Ethical Standards for Research that Conflicts with Religious, Cultural, Traditional or Public Moral Principles, which could be used as a tool for SLAPPs, can also not be ignored.

### **Legal Reforms and Anti-SLAPP Legislation**

Given the direct violation of academic freedom through legal intimidation, implementing robust anti-SLAPP measures is crucial. Such laws are essential to shield academics from baseless legal threats, ensuring their freedom to engage in public discourse without fear of retribution and reinforcing the interconnected values of academic freedom, human rights, democracy, and the rule of law (Scholars at Risk [SAR] Europe, 2022). The Uniform Law Commission (2022) proposed the Model Anti-SLAPP Law, submitted to the Minister of Justice in the United Kingdom, which requires three basic conditions: 1) SLAPP cases must be resolved swiftly within the court system; 2) expenses incurred by SLAPP targets are minimized to the greatest extent possible; and 3) the financial burden on SLAPP filers is increased significantly to discourage future SLAPPs.

The aforementioned proposal is consistent with the findings of Kaewjullakarn and Homket (2023); Schaufele (2022); and Wilkins et al. (2010) in which reclassifying SLAPPs and managing associated costs more effectively, as seen in countries with anti-SLAPP laws like Canada, could expedite case resolutions and deter plaintiffs through punitive measures (such as investment barriers, retroactive taxes or fines, and exponential penalties across time). The Justice Fund Act B.E. 2558 should be revised to cover SLAPPs and financed not only by public money but also fines and penalties from convictions, similar to the Crime Victims Fund established by the Victims of Crime Act (VOCA) in the United States (Sacco, 2024). However, the effectiveness of these reforms still depends on the authorities' commitment to enforcement and the judiciary's readiness to dismiss meritless cases swiftly. To minimize the undue impact of SLAPPs, prosecutors and inquiry officials should be empowered to exercise their general powers under Sections 140 to 143 of the Criminal Procedure Code to render non-prosecution orders without always needing the Attorney-General's approval (International Commission of Jurists, 2020). However,

Kaewjullakarn and Homket (2023) found that although inquiry officials can recommend a non-prosecution order to simplify resolving a SLAPP, the process remains complicated and risky, as they may face complaints or lawsuits from the filer, and pressure from superiors to pursue prosecution limits their ability to exercise independent judgment

In Thailand, SLAPPs can be prosecuted as civil or criminal cases, with civil cases initiated by filing a lawsuit directly with the court and criminal cases either through a complaint to an inquiry official or by filing directly with the court (Kaewjullakarn & Homket, 2023). Unlike in many countries where defamation is punishable mainly by fines, in Thailand's legal system, public criticism can result in jail time. According to various CSO reports, up to 90% of SLAPP cases in Thailand involve criminal charges, which carry excessive punishment of, for example, up to 15 years in jail per offense (Human Rights Watch, 2023). Therefore, defamation should not be criminal (Protection International, 2023). In Johnson and Duran's "A View from the First Amendment Trenches: Washington State on State's New Protections for Public Discourse and Democracy" (2012), SLAPPs are almost universally filed as civil claims in the United States.

Ngamkaiwan et al. (2023) also argue that expanding the scope and definition of SLAPPs is vital for better application of the law. To address this view, Robert Post's concept of "democratic legitimization," emphasizing the importance of all efforts to influence public opinion, should be applied to cover academic communications. Anti-SLAPP statutes should protect speakers from litigation aimed at chilling the exercise of freedom of speech. These laws should require SLAPP plaintiffs to prove the validity of their cases early on, thereby supporting Post's broader view that academic freedom should extend beyond just public issues. In the draft anti-SLAPP law of the UK, the "act of public participation" refers to "any expression or expressive act carried out on a matter of public interest, and any preparatory, supporting or assisting action directly linked thereto," including academic research (Ministry of Justice, 2022).

Accordingly, academics should be able to freely research, discuss and publish without fear of legal repercussions (Johnson & Duran, 2012). The new legislation, perhaps as an organic law, should ensure the basic conditions for academic freedom (Maassen et al., 2023), including the freedom to conduct research, freedom to teach and study, freedom of academic expression, institutional autonomy and self-governance, and labor and financial conditions. Applying immunity from criminal and civil liability to academics who report or publish information to government agencies or self-regulatory organizations would protect them from legal threats, thereby supporting academic freedom and encouraging transparency. It is important to continue exploring how the European Court of Justice protects pressure mechanisms on scholars and researchers (Bodnar & Gliszczynska-Grabias, 2023). The revision of Section 33(2) of the Science, Research

and Innovation Promotion Act of 2019 is also necessary for ensuring that academic freedom is protected by constitutional guarantees and that research guidelines do not infringe on diverse perspectives or fundamental rights.

## **Conclusion**

In conclusion, the case studies analyzed in this paper reveal a disturbing trend of academic freedom restriction in Thailand, exacerbated by Strategic Lawsuits Against Public Participation (SLAPPs) and institutional interference. These legal actions, while often eventually failing in court, effectively serve as “legal burdens” to intimidate scholars and suppress critical academic work, leading to a chilling effect that stifles intellectual inquiry. The study underscores that SLAPPs primarily target three major dimensions of academic freedom: academic expression, financial conditions, and institutional autonomy, while it depends on the nature of each activity and whether it could further affect either freedom to conduct research or freedom to teach and study (see Table 3). Despite constitutional protections, Thailand's current use of SLAPPs undermines its international commitments under the ICCPR, particularly regarding freedoms of expression, peaceful assembly, and association.

The paper's theoretical contribution goes beyond the empirical analysis of SLAPPs to explore the underlying mechanisms that make such legal actions effective for eroding academic freedom. This study highlights that SLAPPs not only represent individual legal battles but also function as part of a broader institutional and societal system designed to disempower critical voices within the academic community. By placing significant financial and psychological burdens on scholars, SLAPPs shift the cost-benefit analysis for engaging in public discourse, including critiques shared on social media platforms, leading many academics to adopt self-censorship as a survival strategy. This phenomenon is not merely an individual response but a collective consequence, as the fear of legal retaliation, both online and offline, creates a pervasive atmosphere of caution and silence within universities. As a result, the institutional autonomy critical to academic freedom is progressively undermined, with universities becoming complicit in suppressing free expression through their reluctance to support embattled scholars.

The findings point to the urgent need for a comprehensive legal framework to combat the detrimental impact of SLAPPs on academic freedom in Thailand. The study recommends implementing a clear anti-SLAPP law or amending existing legislation to define SLAPPs, ensure their swift dismissal, and hold plaintiffs accountable for filing meritless cases. Streamlining the

legal process by allowing prosecutors to issue non-prosecution orders independently will expedite case resolution. Additionally, defamation should be decriminalized to prevent the disproportionate penalties associated with SLAPPs. The creation of a financial support system, such as a SLAPP victims fund or academic victims fund, should be explored to assist scholars facing SLAPPs.

Future research should explore the differential impact of SLAPPs on academics in both public and private institutions and compare the experiences of Thai nationals and foreign lecturers. Such studies, combining quantitative and qualitative approaches, will deepen our understanding of the pervasive effects of SLAPPs and inform more effective strategies to protect academic freedom.

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