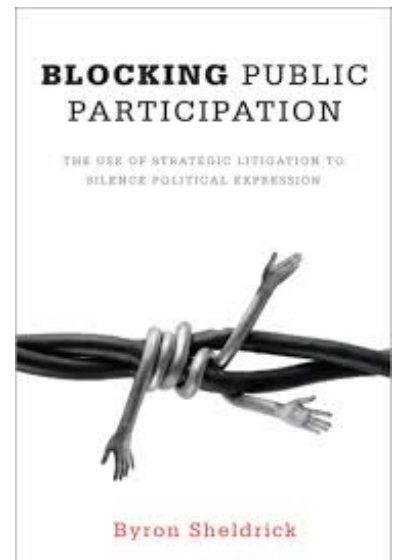


Book Review: Blocking Public Participation: The Use of Strategic Litigation to Silence Political Expression by Byron Sheldrick

In Blocking Public Participation: The Use of Strategic Litigation to Silence Political Expression, Byron Sheldrick contributes to social movement studies by examining how SLAPPS – or ‘strategic lawsuits/litigation against public participation’ – can be used by powerful actors to silence public debate and curtail activist work. Asma Ali Farah welcomes this book for its focus upon the counter-mobilisation strategies of opponents as well as for its practical advice on how SLAPPS can potentially be challenged.

***Blocking Public Participation: The Use of Strategic Litigation to Silence Political Expression*. Byron Sheldrick. Wilfrid Laurier University Press. 2014.**

Since [Doug McAdam and Hilary Schaffer Boudet’s \(2012\) criticism](#) that the field of social movement studies is too restricted to social movements and neglects other actors also involved in contentious politics, there have been efforts to broaden the scope of analysis. In their edited volume, [Players and Arenas: The Interactive Dynamics of Protest](#) (2015), James M. Jasper and Jan Willem Duyvendak present a strategic interaction approach which posits that the key constraints on what social movement organisations can achieve are imposed by other players rather than by structural conditions. *Blocking Public Participation: The Use of Strategic Litigation to Silence Political Expression* follows this line of thinking and offers an invaluable insight into how SLAPPS – ‘strategic lawsuits/litigation against public participation’ (1) – are used by powerful actors to silence activists, depoliticise political issues and ultimately stifle public debate. This is therefore a useful complement to the literature on the relationship between social movements and the law, which is more concerned with the legal mobilisation of social movements than that of their opponents.



In this accessible and short book, Byron Sheldrick starts by providing a thorough clarification of SLAPPS in terms of their rationale, scope and impact on political expression and democracy. A SLAPP is ‘a civil claim, for monetary damages brought against non-governmental organisations or private citizens’ (13). Any form of political activism can trigger a SLAPP lawsuit – from boycotts to blockades, demonstrations and petitions – under the following grounds: defamation; invasion of privacy or exploitation of personality; malicious prosecution or abuse of process; interference with contract or economic advantage; or nuisance and trespass (15-19). According to Sheldrick, SLAPPS affect the political participation of advocacy groups such as social movements in two critical ways. In the first instance, since the dispute moves from the public and political arena to the private and legal one, their ability to express themselves on public issues is severely threatened. Secondly, regardless of the outcome of the litigation, SLAPPS redirect resources away from political activism and may drain a group to such an extent that it ceases existing.



Image Credit: [Pixabay](#)

However, SLAPPs affect the democratic rights of social movements to varying degrees. Sheldrick presents a typology (31) that suggests that the severity of the threat posed by SLAPPs to political expression and participation depends on the configurations of plaintiffs and defendants. A SLAPP pitting an individual against another individual is less problematic than a SLAPP involving collective entities, such as a corporation as a plaintiff and a social movement as a defendant. Furthermore, a SLAPP involving an issue of a public nature poses a greater risk to political freedoms than one concerned with a private dispute. For instance, whereas a dispute between two neighbours is a private matter that does not pose a threat to political participation, the same cannot be said of a resident who is undertaking a development that will have environmental consequences, and sues the local residents' association for defamation or other tort in reaction to their protest (33). This is because the latter case involves an individual preventing others from expressing themselves on an issue of public importance.

A key strength of this book is that besides theorising the dynamics of SLAPPs, it also addresses practical questions such as curtailing SLAPPs and countering them. In 'The Regulation of SLAPPs', Sheldrick compares legislative efforts to limit SLAPPs in the United States and Canada, and the evidence suggests that political opportunities determine the introduction, scope and effect of anti-SLAPP measures in a jurisdiction. For instance, the Committee for Public Participation, which lobbied the government for anti-SLAPP legislation in British Columbia, was hindered by political upheavals and the consequent loss of key political allies. In contrast, although Sheldrick points to the significance of social movement mobilisation, grassroots organisations in Quebec were more successful in their efforts to introduce anti-SLAPP legislation, because they enjoyed broad support and, especially, had the backing of important public figures. Moreover, unlike the case of British Columbia, Sheldrick does not report significant turmoil in the political establishment, supporting the idea that political opportunities are more crucial than mobilisation strategies.

As anti-SLAPP legislation is difficult to bring into being, Sheldrick ends the manuscript with some thoughts on how individual activists and social movements can tackle SLAPP lawsuits at various stages. Firstly, Sheldrick advises selecting a lawyer based on whether one wishes to approach the case as a legal or political matter. If an environmental activist is sued for defamation in relation to a development project, they could either be represented by an expert in environmental law, or select a lawyer who specialises in defamation (128). However, it is best to select a lawyer who is both knowledgeable in tort law and capable of dealing with the political dimensions of the case (137).

Additionally, Sheldrick recommends filing a countersuit to the statement of claim by the plaintiff, which highlights that the lawsuit is an abuse of judicial process. The discovery process can also be used in a strategic manner by the defendant to determine the strength of the plaintiff's case and decide whether it is sensible to proceed to a trial (134). Finally, Sheldrick recommends engaging in a sustained media campaign around the issue to highlight the unfairness of the case and thereby garner public support (136-37). Though these are useful recommendations, putting them into practice is not a straightforward exercise.

To conclude, the key strength of this book is that it addresses the counter-mobilisation strategies of opponents, an issue that is not given enough attention in the social movement literature. Moreover, by demonstrating how opponents can use legal strategies to undermine social movements, this book challenges the assumption that the courts and the law are sources of opportunities for social movements. Therefore, researchers in social movement studies and contentious politics would find this book a useful addition to their collection. Those who wish to read up on neglected empirical cases would especially be well served by the significant focus on Canada.

Asma Ali Farah is a PhD candidate at the Department of Politics and International Relations at Royal Holloway, University of London. She holds an MSc in International Relations from Royal Holloway. Her research interests include political participation, political representation, government responsiveness to protest and women's rights.

[Read more reviews by Asma Ali Farah.](#)

Note: This review gives the views of the author, and not the position of the LSE Review of Books blog, or of the London School of Economics.

- Copyright 2013 LSE Review of Books