

THEMATIC TITLE	LEGAL PROBLEMS REGARDING CONSUMERS PROTECTION FROM STRATEGIC LAWSUITS AGAINST PUBLIC PARTICIPATION IN CRIMINAL DEFAMATION CASE
KEYWORDS	LEGAL PROBLEMS REGARDING CONSUMERS PROTECTION/CRIMINAL DEFAMATION CASE
STUDENT	NATTHAPONG JARITNGAM
THEMATIC ADVISOR	DR. SIWAPORN SAOWAKON
LEVEL OF STUDY	MASTER OF LAWS, CRIMINAL LAW AND CRIMINAL JUSTICE ADMINISTRATION
FACULTY	SCHOOL OF LAW SRIPATUM UNIVERSITY
YEAR	2023

ABSTRACT

This independent study aims to investigate the consumers protection from strategic lawsuits against public participation in criminal defamation case. At present, there are several legal measures in Thailand but it has been found that people who express their opinion or reveal the truth are reported a case before an inquiry official and the consumer needs to fight for exoneration up to the prosecutor and the court, or they become a defendant in case of directly being filed to the court. This takes a long period of time and leads the next opinion expression to be deleted. Moreover, no one dares to mention it again because they are afraid of being filed from expressing any comments. It was found that there were problems related to elements of a crime, prosecutor's authority, and criminal case investigation, which led to the background of this study.

The findings revealed that (1) regarding the problems of consumers protection from strategic lawsuits against public participation in criminal defamation case, Sections 328 and 329 of the Criminal Code consider elements of a crime and exception as general leading the public figure to use laws as a strategic lawsuit against public participation; (2) regarding the problems of prosecutor's authority in protecting consumers in defamation case, Section 21 of the Public Prosecution Organization And Public Prosecutors Act B.E. 2553 specifies that the attorney general is the one who has an authority on non-

prosecution orders by reasons of not for the public interest, which cause prosecutors in Thailand to be limited choices in ordering a case file instead of the criminal prosecution in court; and (3) regarding the problems of criminal procedure law which does not provide an opportunity for a defendant in the case to file a special complaint, according to Section 161/1 of the Criminal Procedure Code, a court shall take an investigating role and the defendant shall present before the court by themselves or the court shall call a defendant for investigation. However, it does not provide an opportunity for the false accused as a defendant to file a complaint in order to reveal the evidence for the court to investigate their innocence in the exercises of right to judicial process of a complainant.

Therefore, to find out the approaches to solve the problem of strategic lawsuits against public participation in criminal defamation case to the consumers, the researcher would like to propose the amendments of the Criminal Code to be more apparent. Criticizing a public figure needs to prove commentator's malice more than general people. Moreover, the researcher shall propose the amendments of Section 21 of the Public Prosecution Organization And Public Prosecutors Act by empowering the prosecutor who is the case file owner to have an authority to order a case as unity and Section 161/1 of the Criminal Procedure by adding the statement in Section 161/1 Paragraph One as "in case that a citizen is a complainant, if they present before the court by themselves or a defendant files a complaint and the court agree to the complaint that the complainant falsely files a case as a strategic lawsuit against public participation of tasking advantage of the defendant for other benefits apart from any lawful benefit authorized or permitted by law, the court shall dismiss a case and prevent a complainant to file the same case again."