

## Block 5 | Risks and unintended consequences of filing a legal claim

The causes of action discussed before are often used to introduce measures that interfere with or violate the rights of journalists. Therefore, it is important to assess the impact taking legal action has on free speech and consider other avenues.

- Filing a legal claim is not easy: it can come at a high personal and financial cost.
- In addition, there can be unintended consequences following from a legal claim. This video will look into the risks and potentially unforeseen effects of addressing harassment in the legal context.
- First: **the cost of litigation**.
- Legal proceedings can be lengthy in duration. This applies to all systems discussed in the previous video.
- This means that they can result in high **financial costs**: lawyer's fees are often not low and while there are organisations and institutions that can provide support for these expenses, resources can sometimes be finite.
- Financial costs are only one part of the picture, though: being engaged in a legal process can be **demanding on a personal level** as well. This applies all the more so when the case is personal and has a bigger emotional impact on the individuals involved. With harassment, where attacks can have a highly personalised and aggressive nature, this will often be the case.
- It is a personal decision if someone who has been subjected to harassment wants to make the investment required to pursue legal remedies; much will depend on personal circumstances, including the financial, emotional and also institutional support that is available.
- Besides the various costs involved in litigation, there can be **unintended consequences** from pursuing a legal claim, which we'll look at now.
- You will have noticed that some of the causes of action discussed in the previous video are ones that are often used to silence journalists. Defamation and privacy claims are often

used to stifle critical reporting. They also have the added by-effect of entrenching journalists in protracted court battles.

- One of the unintended consequences of taking a legal case to address harassment is that this case may help **build precedent that further strengthens the position of those using the legal system to restrict freedom of expression**. In other words: you may silence those harassing you, but this victory in court can have a negative impact on free speech more broadly as it helps build the body of caselaw that is restrictive of freedom of expression.
- It is therefore important to consider if the situation you are seeking to address in essence justifies the impact it could have on free expression and journalists more broadly. Again, this is a highly individualised assessment, where much will depend on the factual circumstances surrounding the case.
- In this context, it is important to consider that **legal remedies are just one of the options available**. The IPI Ontheline Platform points to other responses to consider when confronted with harassment, such as psychological and peer support by colleagues, public condemnation of the harassment and support for the journalist targeted through articles and editorials, and thorough moderation of comments, among others.
- Looking critically at the situation at hand and making a strategic choice on how to address the harassment is crucial.

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