



Bringing together individuals who are dealing with similar issues, and who may share strategic goals, may also assist in achieving positive change. This allows the strategic impact of the cases to be assessed: which issues to raise first; which elements to highlight in each issue; and whether they are more likely to be effective if pursued together to highlight the breadth of the problem, or sequentially to highlight specific aspects within each of them. Additionally, each case may be able to benefit from the information, evidence, and analysis conducted for and obtained through the others.

Case study: Bringing individuals together

The Hungarian Civil Liberties Union (HCLU) is supporting three clients who have reason to believe they were subjected to unlawful surveillance. The three individuals – a human rights activist, an anti-government protestor, and a student activist – are pursuing separate cases.

The strategic goal of this litigation is to “get a ruling from the European Court of Human Rights leading to the government of Hungary creating a legal environment more conducive for human rights defenders and activists to challenge surveillance, strengthen freedom of expression, and bolster the right to privacy.”

Aligning the individual cases or enabling the cases to feed into each other is likely to assist in achieving the strategic goal. Accordingly, the HCLU is working on gathering further information about the various data that has been collected about the individuals to challenge the surveillance processes used by the government.

There are however some difficulties with having an individual as the main litigant. Sometimes, individuals do not readily come forward. This may be due to concerns around the cost of litigation, safety risks, or apprehensions about the perceived length of litigation. It may also be the case that individuals are not convinced that their issue warrants litigious intervention. Or perhaps the individual does not recognise that what happened to them constitutes a violation of their rights, or they are not aware of the role strategic litigation can play in addressing the violation.

“Awareness of rights-holders becomes indispensable when knowledge of rights moves out of the abstract and they become actual victims of violations.”²³ This is of import in the context of digital rights litigation. Highlighting that digital rights are human rights is a simple and effective way of ensuring that people can relate to a violation, understand why it is relevant, and in turn become empowered and informed to work with teams and communities to advance digital rights.

Guideline 14: Communicate effectively with your client, be reasonable with expectations, and prioritise clients’ best interests, always.

²³ International Committee of Jurists (ICJ), ‘Guide: ESCR Litigation’ (accessible at <https://www.icj.org/chapter-3-initiating-judicial-proceedings-making-the-case-2/strategic-considerations-around-litigation/>).