



instructs you to pursue it, and that deprives you of the precedent or legal finding that you want for your strategic purposes? It is important to remember that “[d]espite the main objective of triggering structural change, [strategic litigation] is still litigation and, therefore, must place the interests of the client above all.”<sup>28</sup> Further to this, litigators should always be mindful of “searching” for the ideal litigant. If the role of the individual litigant does not manifest organically, it may be worth considering other options.

**Guideline 15:** Empowered individuals with agency can play a critical role in making digital rights tangible. Find meaningful ways to support individuals in sharing their stories with the world.

### Communities

Working with communities in the context of digital rights litigation appears to be underexplored. This may be as a result of the perceived abstract nature of digital rights, or it may be that in many jurisdictions digital rights are a fairly nascent area of the law and organisations are still working towards setting up partnerships and networks with communities. In addition to the risks of working with individuals, working with communities may pose additional complications such as the need to define the community, and navigate internal politics or the power dynamics related to the community. It may require you to navigate opposing views and complications depending on who you engage with. In this context, it is particularly important to be cognisant of existing power imbalances such as gender, race, ethnicity, language, age, and socio-economic status, and of the need not to entrench those imbalances further.

Regardless of these obstacles, community involvement in strategic litigation has proved effective and necessary time and time again. Achieving positive change, empowering communities, information sharing, and evidence gathering are all enhanced when communities are active participants in strategic litigation. Leading examples of community involvement in strategic litigation span across indigenous people’s rights,<sup>29</sup> equality rights, health care rights, and education,<sup>30</sup> to name a few.

<sup>28</sup> Center for Human Rights & Humanitarian Law, ‘Impact Litigation: An Introductory Guide’ (2016) at 4 (accessible at <https://www.wcl.american.edu/impact/initiatives-programs/center/publications/documents/impact-litigation-an-introductory-guide/>).

<sup>29</sup> See Dailey above n 7.

<sup>30</sup> See Budlender et al. above n 1.