



Digital rights litigators need not look far to see the import of community involvement;³¹ many of the benefits and challenges associated with individuals are relevant to litigation with communities. In both cases, a key goal remains to work towards genuine representation, inclusivity, and diversity.

Case study: Working with affected communities

The recent US case against Clearview AI is a useful example of how to include communities in digital rights litigation, and how to make digital rights tangible.

In 2020, the ACLU worked alongside the Chicago Alliance Against Sexual Exploitation, the Sex Workers Outreach Project, the Illinois State Public Interest Research Group, and Mujeres Latinas en Acción to bring a case against facial recognition company Clearview AI. This novel case sought to “force any face recognition surveillance company to answer directly to groups representing survivors of domestic violence and sexual assault, undocumented immigrants, and other vulnerable communities uniquely harmed by face recognition surveillance.”³²

This case highlighted that while unlawful, privacy-destroying surveillance activities affect all people, the harms from this technology may not be shared equally. The communities involved explained that the technology “isn’t just unnerving, it’s dangerous, even life-threatening. It gives free rein to stalkers and abusive ex-partners, predatory companies, and Immigration and Customs Enforcement agents to track and target us”, and it puts “survivors in constant fear of being tracked by those who seek to harm them”.

Expert tips:

Building relationships with communities is central to the meaningful inclusion of communities in strategic litigation. This requires organisations to be proactive in reaching out to communities and being available. Finding focal points, community representatives, and being accessible are simple ways in which organisations can build relationships with communities. Inviting community organisations to events, listening to their stories, and attending their events are equally simple ways of establishing relationships with communities.

Guideline 16: Be approachable, accessible, and available to communities. Make the effort to establish meaningful relationships.

³¹ Heywood, ‘South Africa’s Treatment Action Campaign: Combining Law and Social Mobilization to Realize the Right to Health’ (2009) 1 Journal of Human Rights Practice (accessible at <https://academic.oup.com/jhrp/article/1/1/14/2188684>).

³² See ‘ACLU sues Clearview AI’ (2020) (accessible at <https://www.aclu-il.org/en/news/aclu-sues-clearview-ai>), see also ACLU v Clearview AI - Complaint (2020) (accessible at <https://www.aclu.org/legal-document/aclu-v-clearview-ai-complaint>).