



Guideline 24: Ideally, you should assess timing on the availability of the right factual matrix and within a key social or political moment. In some instances, you may have to proceed without a “perfect alignment”. While this is not advisable, it may be necessary.

Facts and evidence

Quite simply put, timing is heavily dependent on the collection of facts and evidence to support a legal claim. Litigation should not commence in the absence of sufficient evidence.

“The disclosure of evidence of human rights abuse can be among the most potent material results of strategic litigation. The information may be in the form of reports, sworn testimony, forensic evidence, statistical data, transcripts, photographs, audio recordings, maps, death certificates, or other tangible documentation.”⁵³

Facts and evidence – what you need, when, and for what purposes – are considerations that you will need to keep in mind during the various stages of litigation. It may be useful to think about three bundles:

1. The evidence you need at the start.
2. The evidence you can aim to gather along the way.
3. The evidence you want from your opponents – putting them to the proof or having them answer on the record.

⁵³ Id at 46.