



## Expert tips:

Nani Jansen Reventlow explains that:

“A win in court does not automatically mean that the policy, law or practice you sought to change will be fixed. More work will be needed to push for implementation, legislative follow-up, and sometimes also in the courtroom. To fight these battles on multiple fronts, it is important to have partners who are skilled in pursuing those objectives together. On the other end of the spectrum is the situation where a case is lost. In some circumstances, a loss in court can still be leveraged into a win on other fronts. For example, public outrage about a judicial outcome can help create a necessary push for legislative change. Here, public support, as well as strategies and partners outside the courtroom are essential.”

**Guideline 35:** One of the critical factors in ensuring that strategic litigation achieves maximum positive change is efficient and effective enforcement and implementation. This is often a challenge within itself. Know the process, recognise the political climate, and use compliance and non-compliance alike as key moments for advocacy.

## Factor in time for monitoring and evaluation

Effective strategic outcomes and genuine impact are not easy to establish and require a full assessment to avoid unintended consequences and wasted resources and opportunities. Monitoring and evaluation (M&E) during and upon completion of strategic litigation is key. It can help identify valuable and efficient uses of resources and highlight how you can allocate and reallocate resources in better ways. It allows for the collection of necessary data that can guide future strategic planning and enables team members to make informed decisions going forward. Importantly, it allows you to reflect on the impact of your case and whether the strategic objectives have been met. However, due to the nature of strategic litigation, litigators are often already onto the next matter before the last one has been completed. Litigation teams often work tirelessly to affect positive change and do not always carve out time to reflect on matters. While time and capacity constraints are very real, the import of M&E cannot be gainsaid.

<sup>78</sup> Reventlow, 'Connecting litigation with other efforts: strategic litigation as a tool in the toolbox' (2018) Digital Freedom Fund (accessible at <https://digitalfreedomfund.org/connecting-litigation-with-other-efforts-strategic-litigation-as-a-tool-in-the-toolbox/>).