



Phase 3: Navigating the various types of litigants

In the context of strategic litigation, the identity of litigants can take on a variety of forms.²² Choosing a litigant can be a strategic decision, a practical one, or one directed by the standing requirements of a particular court. The various roles can also be distinguished between those driving the litigation – an individual litigant (“client”) or a CSO – and those supporting it, such as third-party interveners or *amicus curiae*. In digital rights litigation, the current trends appear to err on the side of organisations or networks as the litigants rather than affected individuals or communities. While this form of representative action is not inherently negative, it is worth reflecting on the development of this trend, whose interests the litigation is ultimately seeking to protect, and how organisations can ensure that they achieve the necessary client diversity. In this context, it is also important to navigate different strategies around inclusion and empowerment to enable affected persons or communities to participate in processes that impact their rights.

Guideline 13: Decisions around litigants often turn on what may work best in a particular context, and the procedural prescripts of a given jurisdiction.

Reflecting on the various types of litigants

Individuals

An individual as the primary litigant can give a face to an issue and can embody, in concrete terms, the impact of the rights violation. In the context of digital rights, it is often important to get that message across – to highlight that the violation is not abstract but matters to human beings. The role of an individual can take many forms and support a matter in a variety of ways. One example is collecting and sharing stories about how a digital rights issue – such as an internet shutdown – directly impacted individuals. Individuals, such as [Edward Snowden](#) and [Julian Assange](#) may fulfil a different role in highlighting the severity of an issue. Or individuals, such as [Lohé Issa Konaté](#) and [Can Dündar](#) who are facing criminal charges, highlight unjust laws. There are also individuals like [Shreya Singhal](#), and [Gina Miller](#) who take it upon themselves to fight unjust policies.

²² For purposes of this toolkit the term “litigant” is understood to include a claimant, applicant or plaintiff, or other terms used to describe the party bringing the matter before a court.