



Guideline 2: The intended outcome, inclusive of your client's or potential client's outcomes, must always be the point of departure, and its achievement is the primary goal.

Activism – whether through strategic litigation or otherwise – does not occur in a vacuum and should always be assessed in light of its intended outcomes and potential unintended consequences. Effective strategic litigation has positive social, political, and legal benefits both in the short- and long-term. It avoids negative or regressive jurisprudence and should not be initiated for any reason other than the promotion of positive change. In other words, it should only be initiated when ripe.² In some instances, organisations are funded to engage in strategic litigation, and funding obligations can compel litigators to act more quickly than a case warrants. This can lead to mistakes and should be avoided.

Guideline 3: Context – social, political, economic, and legal—should inform decisions on whether, when, and how to use litigation and advocacy in support of change.

In determining the potential outcomes of a case, it is useful to ask:

1. What are we trying to achieve and why?
2. What tools and strategies do we have at our disposal?
3. What could litigation achieve that might be useful in supporting or contributing to the positive change we seek?
4. How can litigation complement other strategies?
5. Is it the right moment to pursue litigation?
6. Is there a time that a case is most likely to succeed, or have the most impact?
7. Will the litigation assist or impede other ongoing or potential strategies?
8. What are the potential unintended consequences of litigation?
9. What will the actual outcome be if we are successful?
10. If we are unsuccessful, does this case have the potential to set regressive or bad jurisprudence?

²The term “ripe” or “ripeness” is colloquially used to refer to a case that is ready to proceed.