

RESEARCH ON STRATEGIC LITIGATION IN GUATEMALA AND HONDURAS 2019-2020



Photo: Community assembly in Tocoa, Honduras votes no to mining in their territory. November 2019.
Credit: Victor Ferrigno

trōcaire

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Complete original Spanish version and annexes available upon request

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I OVERVIEW

In Guatemala and Honduras, Trócaire has been supporting civil society organizations in their work to protect and defend the human rights of indigenous and *campesino* (peasant) communities for over a decade. One of the strategies in this work is the use of a strategic litigation approach, which has proven to be valuable both in the social struggle to promote the enforcement of human rights, and for their restoration or reparation in cases where they have been seriously violated, restricted or disregarded.



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In late 2019, Trócaire decided to commission a comparative study of strategic litigation cases in Guatemala and Honduras in order to explore the **experiences of the indigenous and peasant women and men at the heart of these cases, using a gender lens, and the lessons learnt and good practices surrounding this work**. Trócaire hired a two-person research team comprising an expert on human rights law and strategic litigation in Guatemala and a social psychologist, also from Guatemala.

In terms of the research sample, two cases were selected in each country and priority was given to cases linked to the defence of natural resources by indigenous and peasant communities. A transitional justice case dealing with sexual slavery during the civil war in Guatemala was also

chosen due to its emblematic nature. The qualitative research of the four selected cases was underpinned and complemented by comprehensive conceptual frameworks on human rights, collective citizen empowerment and a strategic litigation approach (what it encompasses, what it is used for and how to carry it out).

The research team used a mixed methodology; the theoretical sections on strategic litigation, citizen empowerment and the legislative framework for indigenous and peasant individual and collective rights were based on an extensive literature review as well as previous works by the legal researcher. The empirical section is based on a review of the legal files of the selected cases as well as individual and collective interviews of a total of 90 informants¹. The interviews and focus group discussions took place in 8 different locations across both countries between November 2019 and January 2020.

A key focus of the research was to ascertain whether the approaches taken had contributed to the **empowerment of the indigenous and peasant women and men at the heart of the cases**, whereby the operational definition of empowerment applied was “the

The interviews and focus group discussions took place in 8 different locations across both countries between November 2019 and January 2020.

¹. 23 individual interviews, 9 collective interviews (focus group and in-depth group discussions)

process by which a rights-holder increases her/his capacity to exercise a greater dose of sovereign power...”, with a **specific emphasis on women’s empowerment**. The indigenous and peasant women and men referred to are primarily the affected rights-holders who were legally represented as co-plaintiffs or defendants in the cases and in this regard **are both victims/survivors of human rights violations and abuses and human rights defenders**. However, also included in the research analysis were other members of the affected communities, such as the close family members of the co-plaintiffs and defendants and fellow frontline defenders.

To answer the research question, the research team asked key stakeholders what their perceptions were, including most of the primary affected rights-holders themselves², as well as their lawyers, their relatives, fellow frontline defenders in the affected communities and civil society allies. Aspects of the strategic litigation approach probed were the decision-making processes, information sharing, the relationship between the affected rights-holders and their lawyers, the coalition of actors leading the cases and further political alliances, the level of political education and civic action of the affected rights-holders and whether the affected rights-holders had received psychosocial and other supports prior, during or after the cases.

This summary highlights the main findings and recommendations related to the following four headings:

- Strategic Litigation as multi-faceted processes with multiple goals that may continue beyond a legal ruling
- Political empowerment of the affected rights-holders at the heart of the cases
- Women’s empowerment and women’s participation
- Psycho-social support

² Except the 8 imprisoned defenders of the Guapinol and San Pedro rivers, due to access issues



Mayan altar at the doors of the Supreme court of Justice in Guatemala. Credit: Elena Hermosa/Trócaire.

The research is primarily for partner organisations and Trócaire country teams in Central America and other regions, which are interested in using a strategic litigation approach towards not only achieving remedy for victims and survivors of human rights violations and abuses but also towards achieving a socio-political transformation of the underlying causes of those violations. In particular, it is hoped that the conceptual frameworks, findings and recommendations of the research may serve as resources for those tasked with developing and undertaking multi-faceted strategic litigation processes to defend and protect natural resource rights in Guatemala and Honduras.



At the Guapinol river. Gabriela and Briana are daughters of two of the men that have been in jail since 28/08/19. Photo: Giulia Vuillermoz

WHAT IS STRATEGIC LITIGATION?

The American Bar Association refers to strategic litigation as a legal case undertaken “as part of a strategy to achieve broader systemic change. The case may create change either through the success of the action itself and its impact on law, precedence, or policy or by publicly exposing injustice, raising awareness, and generating broader change.” Strategic litigation is often used as part of a wider advocacy campaign or long-term struggle for human rights. It is also known as strategic human rights litigation.

As explained in the Advocacy in Restricted Spaces Toolkit for CSOs by Lifeline/Freedom House (2020):

In restrictive contexts, judicial processes may be biased and lack transparency. However, even if a CSO does not win the litigation case, there are still benefits from the effort. Benefits might include changing the public discussion, promoting individual or community empowerment, or pushing agencies or ministries to change behaviour. Even better, when the outcome of a case is positive, it can set a precedent for preventing future human rights violations. Successful cases can result in a judicial decision that causes direct or indirect changes in policy, law, court processes, and institutions. Strategic litigation can also target regional organizations if national level judicial processes fail to provide justice for survivors of human rights abuses. Regional or international organizations can also support norms or precedents

for advocacy initiatives. The European Court of Human Rights and the Inter-American Commission on Human Rights have helped with these kinds of strategic litigation in the past.

The operational definition for strategic litigation used by the research team was: “a set of legal and complementary strategies aimed at using the law as a lever for social transformation. The end goal of this transformational use of the law is to defend the common good and promote human rights and social justice”. In other words, strategic litigation is use of the law and complementary strategies to achieve an outcome that goes beyond the benefit of the person(s) being represented (as a plaintiff or defendant). Currently Trócaire supports strategic litigation processes in Honduras, Guatemala, Myanmar, Occupied Palestinian Territory-Israel and Zimbabwe.



Indigenous leader Fausto Sanchez and the Mam Txe Txe Council give a press conference upon the release of Sanchez, after being jailed for 2 years 3 months for opposing a hydroelectric dam in his communities' territory in Guatemala. Photo: Nelton Rivera, Prensa Comunitaria. Creative Commons Licence CC BY-NC-ND 4.0

LEGAL DISPUTES OVER CONTROL OF AND USE OF NATURAL RESOURCES



As mentioned, for the research sample, priority was given to cases linked to the defence of the territorial and natural resource rights of indigenous and peasant communities.

A transitional justice case dealing with sexual violence and sexual slavery during the civil war in Guatemala was also chosen due to its emblematic nature. However, this case, known as the Sepur Zarco¹ case, also happened **in the context of a dispute over indigenous territorial and natural resource rights** between indigenous Q'eqchi' Maya communities and the Guatemalan State. The second case from Guatemala centres on a dispute between the indigenous Mam Ancestral Authorities of San Pablo, San Marcos and a hydroelectric dam company called Hidrosalá², and has included efforts both to legally detain the hydroelectric dam as well as to obtain the release of several indigenous leaders criminalised for their opposition to the dam. In Honduras, the cases selected were the case of José Isabel Morales (Chabelo³), member of the Peasant Movement of Aguán, who was imprisoned for almost seven years charged with a murder he did not commit that took place in the context of a land dispute between peasants and elite landowners, and the case of the Guapinol and San Pedro River Defenders⁴, eight members of the Municipal Committee in Defence of Common and Public Goods of Tocoa, who have been criminalised for defending their communities' water source in opposition to a mining company and at the time of writing have spent 10 months in pre-trial detention on false charges.

It should be noted that the four cases are quite different, with different coalitions of affected rights-holders and their allies and governed by the legislations of two different countries, and at different stages of proceedings. The case of Chabelo was closed upon his release in 2016 although the land dispute in the

Lower Aguan Valley has still not been resolved. The case of Sepur Zarco obtained a historic legal ruling in 2016 that set a national and international precedent: for the first time, **sexual violence and sexual slavery** was tried as a **crime against humanity in a national court**. The perpetrators were convicted, receiving jail sentences of 120 and 240 years, respectively and the victims were awarded a dignified reparations sentence. Those symbolic and material reparations are still in the process of being implemented. The case of the Mam Ancestral Authorities vs. Hidrosalá is still ongoing although the falsely imprisoned indigenous leaders, including Fausto Sanchez, have been released. The case of the Guapinol and San Pedro River Defenders is still ongoing, in the sense that the 8 defenders are still languishing in pre-trial detention on false charges and the mining company continues to operate and continues to pollute their communities' water source - the Guapinol and San Pedro rivers - despite several legal and political actions by the Municipal Committee in Defence of Common and Public Goods of Tocoa and their allies to stop it. One such action was a community assembly held in Tocoa in November 2019 which several hundred community members attended and during which a resounding majority rejected mining in their territory, demanded the closure of the mining company and urged the Municipal Council not to renew the municipal permits for mining operations, which expired on 31 December 2019. The Municipal Council approved the resolutions of the assembly, but the mining company maintain they are not binding and have ignored them.

¹ See Trócaire [video](#) on the case and read a [report](#) from Impunity Watch on the lessons learnt from the case

² See [case study](#) of Mam Ancestral Authorities vs. Hidrosalá legal dispute

³ See [summary](#) of Chabelo's case here

⁴ See summary of Guapinol River Defenders case in [MEP letter](#) to Honduran authorities April 2020

I RESEARCH FINDINGS



“Territory, water and seeds” reads a mural celebrating indigenous peoples struggle for their resources, Honduras. Photo: Garry Walsh

Strategic Litigation as multi-faceted processes with multiple goals that may continue beyond a legal ruling

The research shows that strategic litigation is not just about using courts and judicial bodies to try to achieve justice, accountability and protect and advance human rights. Taking a strategic litigation approach means using a **wide range of legal and complementary strategies**, including community mobilisation, advocacy, communications, psycho-social and security; and strategic litigation cases can take many years to build, prepare, pursue and close, and therefore should be understood as multi-faceted processes that are very resource intensive and require a long-term commitment from a range of stakeholders. The research asserts this is particularly true in Guatemala and Honduras as their judicial systems are demonstrably corrupt, inefficient, partial, racist, patriarchal, sexist and conservative. Moreover, women and men in these countries who defend their communities’ natural resource rights and other human rights through strategic litigation do so in high-risk conditions, “[...] in a civic space under attack, in a context of serious violations and restrictions of civil and political rights. [...] Defenders are attacked with total impunity, and criminalised, delegitimised and discredited because of their work in promoting and defending human rights”¹.

Furthermore, while the achievement of a favourable legal ruling or rulings could be the end goal of a strategic litigation case, in many instances it does not mean the end of the *process*. In other words, a favourable legal ruling may achieve justice and accountability on paper but the ruling needs to be implemented for justice and accountability to be tangibly achieved. E.g. In the Sepur Zarco case, in 2016 the judge awarded reparations to the wider community affected by the violations the women plaintiffs endured. However, four years on, the reparations have still not been fully implemented, and ongoing citizen monitoring and advocacy is required to ensure the State is held to account to deliver on these reparations. Moreover, in the three cases involving criminalised resource rights defenders, their release from prison is the immediate goal but not the ultimate goal of their cases. The ultimate goal of their cases is to promote the recognition, protection and enforcement of their communities’ collective natural resource rights. Further goals within these strategic litigation cases are to clear their names, challenge the State-dominated narrative that these defenders are “anti-development terrorists”, and to challenge the impunity of corrupt State and corporate elites who work in collusion to use malicious litigation strategies to defame and deter those who pose a threat to their economic and political interests.

¹ Honduras Country Report of the UN Special Rapporteur on the situation of HRDs, 2019.

Political empowerment of the affected rights-holders at the heart of the cases

A key finding was that the co-plaintiffs of the Sepur Zarco case became politically empowered by virtue of their participation in the case, as described in the next section. Conversely, the defendants of the other three cases had already a certain level of political empowerment prior to their arrest, as they were already civically and politically active in their communities defending their natural resource rights. In fact, the grassroots citizen collectives they belong to, have been involved directly or indirectly in political and electoral activities. The leaders and community members of San Pablo even participated and won the municipal elections, in alliance with the Guatemalan National Revolutionary Unit (URNG). This shows the community leaders understand their struggles and their strategic litigation case are part of a larger power dispute against state apparatuses that do not fulfil their function of guaranteeing peace, development and other human rights².

Their level of empowerment and the strength of the citizen collectives they belong to, along with the solidarity approach of the CSOs they chose to ally with on the cases, ensured they were/have been active participants in the strategic litigation cases. For example, it was found that in general terms, an acceptable or good relationship was identified between affected rights-holders and their communities with their lawyers, even with the private lawyers who were hired by the accompanying CSOs. All major decisions relating to legal strategy and procedure were/have been made democratically, and generally in assemblies or community meetings. In general terms procedural information also flowed acceptably, and only minor incidents were reported due to the complexity of the processes, the distances or the collective nature of the legal advice, e.g. in the Guapinol-San Pedro case, there are eight lawyers representing eight defendants in the same legal dispute.

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² Interview with Allan Alvarenga, Y. González, J. Mejía, and community members from Guapinol; F. Sánchez, San Pablo, and H. López de Paz, COPAE.

It warrants mention also that the research affirmed that the members of the citizen collectives at the heart of the cases studied had a higher level of political education than the average person in both countries. In interviews it emerged that, except for the Sepur Zarco case³, the Catholic Church had played an important role in this political education, through different capacity building measures and accompaniment that took place years previous to the legal disputes erupting. For the Chabelo and Guapinol-San Pedro cases, it was through ERIC, FSAR and the parishes of Tocoa and San Pablo⁴ and for the Mam vs. Hidrosalá case, it was through The Land Defence branch of the Catholic Church in San Marcos and the Parish of San Pablo for the Mam community in the area⁵.

Women's empowerment and women's participation

In the case of Sepur Zarco, there was a **deliberate women's empowerment approach** from the outset (as also found in other transitional justice cases in Guatemala, such as the Ixil genocide cases), which can be highlighted as **best practice**. The whole case was designed to ensure the needs and priorities of the indigenous women survivors remained at the centre of the case and the women received gender-sensitive and culturally appropriate accompaniment and attention, before, during and after the trial. Accompaniment included survivor-centred legal aid, culturally appropriate psycho-social support⁶, enabling spaces for peer support, honouring their native Q'eqchi language by ensuring translation and interpreting throughout the process and citizen empowerment via human rights training and other capacity-building measures. The 15 Q'eqchi' women who had survived the sexual violence and sexual slavery decided to pursue justice in 2010 and teamed up with **three feminist civil society allies**: the Community Studies and Psychosocial Action Team -ECAP, Women Transforming the World -MTM, and the National Union of Guatemalan Women -UNAMG. Collectively they became known as the Alliance to Break the Silence and Impunity, whereas the 15 Q'eqchi women survivors formed the Jalok U Collective⁷. Over the six years it took to build, litigate,

³ They received human rights training from Alliance to Break the Silence and Impunity

⁴ Interviews with Joaquín Mejía and Y. González, ERIC; Juan López, Tocoa Parish; F. Sánchez, San Pablo.

⁵ Focus Group in San Pablo, Guatemala.

⁶ The women survivors had in fact been receiving psycho-social support since 2000 from ECAP, one of the members of the Alliance to Break the Silence and Impunity, a decade before the case had begun to be built and litigated.

⁷ "jalok u" means transformation or change in the Q'eqchi' Mayan language

and win the case, the Alliance helped the women of Sepur Zarco to overcome fear, organize, and design their strategic litigation strategy. During the different stages of the process, the Alliance maintained constant dialogue with the women and provided comprehensive support, considering that most of the women are over 60 years old, are illiterate, and do not speak Spanish. The Alliance's efforts were primarily focused on empowering the women to be protagonists of their own struggle and to achieve justice, reparations, and the recognition of their rights. The women survivors also received backing from other national and international women's organizations and human rights groups.

The women survivors were also consulted in all important decisions regarding the case. The case lawyers and support staff had the respect and sensitivity to inform the women of procedural incidents through interpreters and the women consulted their sacred fire in Mayan ceremonies before giving their opinion on what decision should be made, as well as how and when it should be executed. For example, this ritual was decisive in defining when and how the perpetrators were to be captured, since their relatives live in the same community as the survivors.

“Everything we did was consulted by them, what we wanted to do and what we didn't want to do. We did nothing on our own, nor did they on their own, everything was in consensus, and as a whole, that if we say yes, then yes, but if we say no, then no”

Sepur Zarco co-plaintiff⁸

On the other hand, there was **no women's empowerment approach applied to the other three cases**, which were in defence of criminalised HRDs. The defendants of these cases were/are mostly men, although in the Mam vs. Hidrosalá case, 2 women HRDs were arrested and prosecuted and several women HRDs involved in the protest camp defending the Guapinol and San Pedro rivers were also criminalised, with warrants issued for their arrest. They were absolved of charges against them in early 2019. Beyond the criminalised HRDs, the wives, mothers, daughters and fellow frontline defenders,



The women of Sepur Zarco at the trial to convict their perpetrators of sexual slavery. Photo: Mujeres Transformando el Mundo

both female and male, have all been involved and affected by the human rights struggle and would require specific and differentiated support towards their political empowerment and their emotional stability and integrity (see next section). **A gender-sensitive approach was not deliberately applied either, which was a gap**, especially considering how women as well as men have **actively participated** in the struggle for resource rights at the heart of these cases. The research found that women have made huge contributions to each strategic litigation process, albeit not always in a recognized leadership or frontline role and these contributions were not made visible or valued from the beginning. In practice, however, women have replaced male leaders, when detained, taken important political decisions, resisted security forces (at the Guapinol protest camp), and increased their presence over time in public events such as town hall meetings, legal hearings, rallies, marches, etc. It is also worth noting that one of Chabelo's lawyers was a woman (Sara Aguilar) and women NGO leaders have accompanied the communities' struggles (e.g. Dunia Perez of ERIC, Juana Esquivel of FSAR). See annex on women's participation in the cases for more information.

⁸ In-depth interview. El Estor, Izabal, Guatemala. December 2019.

Psycho-social support

One of the research questions was to what extent the affected women and men at the heart of the cases received psycho-social support, understood in the context of the research as a “strategic process of supporting individual, family and collective emotional stability and integrity, where spaces are provided for expression and recognition of the emotional impact caused by violations of their human rights.” According to Guatemalan partner organisation ECAP, which accompanied the Sepur Zarco Q’eqchi women survivors of sexual slavery before, during and after the trail to prosecute their perpetrators, psycho-social accompaniment “includes personal, family and community assistance and accompaniment to confront emotional suffering, rebuild social ties for the social fabric, promote local capacities as well as sustainable life projects as part of the recognition of autonomy considered in each and every human being.”

While it was found that the Sepur Zarco women had received comprehensive and professional psycho-social support as part of the strategic litigation approach, the affected rights-holders of the other three cases had received only minimal ad-hoc psycho-social support or none at all. However, although professional psychological help was not provided, the affected rights-holders reported to have felt morally and emotionally supported through practical solidarity actions on the ground. Conversely, it is also noteworthy that the closest family members of the criminalised HRDs at the heart of the other three cases such as the wives, intimate partners and mothers, did not receive any targeted support. This was raised as a concern by the research team as it was evident from interviews that these women have been providing huge emotional, moral and practical support to their husbands, partners, brothers, sisters, sons and daughters who were criminalised and have been greatly impacted emotionally by the ongoing struggles for natural resource rights and associated legal disputes.



Two daughters of the imprisoned Guapinol human rights defenders, Liss Jireth Cedillo Zúniga (7) and her friend Cristhel Alejandra Romero Portillo, holding their drawings in front of the Public Ministry in Tegucigalpa, Honduras. The sign in the background says “Guapinol is resisting”. Photo: Giulia Vuillermoz

I CONCLUSIONS

- As mentioned in the overview, strategic litigation in Guatemala and Honduras is being waged within judicial systems that are corrupt, inefficient, partial, racist, patriarchal, sexist and conservative. Thus, affected rights-holders and allies at the centre of the strategic litigation processes must be empowered to such a degree as to be able to overcome the institutional and procedural obstacles they face.
- In fact, a successful strategic litigation case hinges upon a trained, motivated and empowered “political subject”, i.e. the citizen collectives at the centre of the cases, made up of women and men rights-holders who are both victims/survivors of the violations and abuses at the heart of the legal disputes and defenders of their own and their communities’ human rights.
- The four cases studied reflect this assertion, although the citizen collectives at the centre of each case displayed different degrees of empowerment. As the citizen collectives at the centre of three of the cases studied were constituted and consolidated within the framework of community struggle for natural resources, it is to be concluded that citizen participation is the decisive factor in achieving a motivated and empowered “political subject”¹.
- With the exception of the Sepur Zarco case, the legal, political, social, communication and financial strategies of the other cases studied are developed in a reactive way in difficult conditions as the situation evolves, and the deliberate political empowerment of rights-holders at the centre of the cases via socio-political training and psychosocial accompaniment is often relegated to second place. It is in this highly adverse context, going against the current, as they face institutional shortcomings, aberrant normative interpretations, or unacceptable judicial-political behaviours, in contravention of international standards, that the strategic aspects of the legal dispute are formulated and pursued.
- In all the cases studied, the opponents of the strategic litigation cases seek to discredit, criminalise and delegitimize the struggle and the claims of the coalitions of affected rights-holders and their allies who are waging the cases, with the support of mainstream media. In this battle to win social acceptance and solidarity, a good practice of the coalitions using a strategic litigation approach has been to use social networks and alternative media to counter these attempts of delegitimization.
- In the area of good practices and lessons learned, despite the shortcomings found in the cases studied, the coalitions of affected rights-holders and their allies who are waging the cases have fought heroic civic battles, in very adverse conditions, in which women’s participation has been crucial.
- Despite the huge power imbalance between proponents and opponents, and the length of the strategic litigation processes, the achievements obtained have been significant, although the cost in suffering, imprisonment, persecution, and lives has been very high.

¹ Confirmed in 25 of the interviews conducted. An employee of the State, the Public Defender in the San Pablo case did not give an opinion on this matter.

I RECOMMENDATIONS

1. **Responding to criminalisation of affected rights-holders and their allies using strategic litigation**
2. **Strategic Litigation training for affected rights-holders, community paralegals and lawyers**
3. **Communication strategy**
4. **Citizen Empowerment strategy**
5. **Women's inclusion and empowerment**
6. **Psychosocial support**

Responding to criminalisation of affected rights-holders and their allies using strategic litigation



It is unacceptable that citizens' movements and coalitions of actors using strategic litigation continue to do so at such a high cost to their personal integrity and their lives. Trócaire should strongly encourage its partner CSOs to formulate and promote a policy and plan to defend against repression and criminalisation, based on the recommendations of the Office of the Human Rights Ombudsman and OHCHR in Guatemala and the UN Special Rapporteur on the situation of human rights defenders in his 2019 report on Honduras.

Those using strategic litigation to claim rights or obtain justice should implement policies, plans, security measures and psychosocial support proportional to the risks they face, before, during and after the case.

In addition to psychosocial accompaniment and emergency material assistance, it is necessary to promote policies for the training and involvement of the families of victims, missing persons, detainees, criminalised persons, threatened leaders, lawyers and solidarity NGOs. Female activists as well as the mothers, wives and daughters of male activists are the most affected, so such policies should be adapted to their needs and be culturally relevant, particularly when

working with indigenous women. One of the priority objectives to be achieved in this area is the political and social empowerment of women.

Strategic Litigation training for affected rights-holders, community paralegals and lawyers



Citizen participation¹ is a vital ingredient in the individual and collective political empowerment of those that use strategic litigation to seek remedy for violations of their rights, in particular when those violations are related to territory and natural resources such as land. To this end, it is necessary to have community leaders, community paralegals and lawyers trained in strategic litigation. This subject is not yet taught in law schools or in popular training courses. Although it has multidisciplinary components, strategic litigation is at its core a legal resource, which requires specialised legal knowledge of doctrine, theory and procedures.

While recognising the efforts of those who promoted strategic litigation training courses in both countries in the past, a longer-term systemic effort is needed, in the form of permanent diploma courses, endorsed by universities or higher education institutes, so that students are motivated to attend. In Guatemala,

¹. Actions by organised citizens who know their rights and exercise them consciously, in pursuit of the common good

Trócaire could reactivate the strategic litigation training programme with the Universities of San Carlos, Landívar and Mariano Gálvez, which the OHCHR Maya Programme promoted with great success. The modules are already designed - one should be added in psycho-legal matters - and the teachers are already identified, and the cost is reduced by using the university facilities. As they have been designed as a diploma, community members can attend and receive tri-institutional accreditation. In Honduras, ERIC and FSAR have decades of experience in popular training and could promote a similar diploma course.

In Guatemala, during the internal armed conflict, most lawyers focusing on agrarian and labour rights were exiled, disappeared or killed, leaving the social movement legally unprotected. This situation was partially resolved by training community paralegals from the workers' and peasants' ranks. In this way, a lawyer could direct six or eight community paralegals, multiplying their capacity to advise. This successful experience can be revived by including them in the diploma course, and many shortcomings can be resolved.

Communication Strategy



Each strategic litigation case should have its own communication strategy, with clear messages to be communicated from the litigants to different stakeholders: first to the affected community, then to stakeholders at sub-national and national level and finally to allies and institutions in the international arena. The strategy should include the following elements: Situation analysis; Self-assessment (SWOT); Background of the Strategic Litigation case²; General Plan for the Strategic Litigation case and its objectives; Communication Analysis³

Key objectives of the communications strategy are to ensure affected communities and other key sectors of the population are aware and mobilised in support of the demands of the case and that it is seen as a legitimate case in the eyes of the public.

² The basis of the legitimacy and legality of the right claimed, the actors who violate it, the consequences for the community or society of the violation of the right, etc.

³ Analysis of where, how and by whom communications about the case will/should take place.

Citizen Empowerment Strategy



A general strategy should be designed to contribute to the individual and collective empowerment of the affected rights-holders at the heart of any strategic litigation process, as a cross-cutting component of all specific legal and complementary strategies with concrete and measurable goals. Furthermore, this citizen empowerment strategy must be rights-based, gender-responsive and culturally and age relevant.

In designing the citizen empowerment strategy, it should be considered that the coalitions of organised citizens and civil society allies leading and implementing the strategic litigation process are spaces of convergence that grow and consolidate progressively and temporarily, and their strength is variable, depending on a number of factors, including the type of case being litigated, the resources available, quality of relationships, power dynamics and not least the level of citizen participation in the affected communities.

Women's inclusion and empowerment



Citizen empowerment requires the specific political and social empowerment of women as well as men. This process is neither easy nor quick. In addition to repression and patriarchal attitudes, the role of the neo-Pentecostal churches and their pastors, who condemn citizen participation by women, are a difficult obstacle to overcome. Consequently, it is necessary to design training programmes specifically for women, specifically for men and then mixed. It is important that these training programmes seek to legitimise the role of women as defenders of human rights, territory and natural resources, so that collective social imaginaries are broadened and communities accept that women are agents of change outside the home.

In order to promote the inclusion of a gender perspective in strategic litigation cases by Trócaire's partner organisations, we recommend the implementation of a project that specifically addresses this issue as a priority in the teams that support and accompany strategic litigation cases and the struggles of women human rights defenders, as well as the communities in which they work. This is to address this gap identified in the interviews conducted during the research, and to respond to the expectations expressed by the interviewees. The work carried out should be enriched by the conscious and equitable

empowerment of the members and leaders of the organisations, and of the communities involved, in order to strengthen struggles and leaderships, starting with affirmative measures to compensate for the historical subordination of women.

Psychosocial support

Psychosocial accompaniment includes personal, family and community assistance and support to face stress, trauma, confusion and emotional suffering, but it should also aim to contribute to the reweaving of the social fabric that has been affected, and to enhance individual and collective capacities to undertake sustainable life projects, which is part of the right and recognition of autonomy, that each and every human being has for a dignified life.

We recommend development of an institutional policy, in each partner organisation on psychosocial accompaniment. We also recommend that there be an operational definition of social psychology and political violence, in order to locate the contribution of psychosocial accompaniment, which would be shared and incorporated into the work and projects undertaken by Trócaire partner organisations in their participation and support of strategic



litigation processes. We recommend that a specific psychosocial team with specialised personnel in-house or on retainer in the partner organisations with the purpose of strengthening and empowering the victims/survivors, defenders, family members and professionals who participate in strategic litigation processes, as well as the affected communities. It is particularly critical to make professional psychosocial accompaniment available before, during and after legal hearings for affected rights-holders (whether co-plaintiffs or defendants) and to their families. If possible, support should be extended to the wider affected community, as well as other human rights defenders and civil society allies who are involved in the strategic litigation process and wider HR struggle because it was evident during the interviews and group discussions that they have also been affected by stress, threats, attacks, discrediting, and criminalisation.

For this purpose, it is also recommended to have the collaboration of specialised organisations that provide psychosocial services, and that deal with research and analysis in the field of social psychology and political violence. In addition, the contribution of study centres should be sought, which will provide training for professionals specialising in the subject.



"Freedom For Guapinol" Campaign Banner Credit: Guapinol Resiste Campaign

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