

Update on Current ERT Projects

Project “Law Enforcement Discrimination and Deaths in Custody”

Launched in December 2007, this project has three main objectives: (i) to systematise the existing pool of knowledge on the relationship between deaths in custody and discriminatory policy or conduct by law enforcement bodies; (ii) to further enhance the global understanding of the nexus between deaths in custody and discrimination; and (iii) to develop and promote new advocacy tools that will complement existing investigatory standards into custodial deaths by adding a distinct anti-discrimination component.

From December 2007 to March 2008, ERT carried out research into the issues and created a country-by-country database, as well as a legal file. In March, a detailed concept paper was developed, dealing with all aspects of law (international, regional and national) and law enforcement practices as well as with political, economic and social circumstances which are relevant to deaths in custody. This formed the basis for methodology and questionnaires for first-hand research work in case study countries. By May 2008 the research team had determined seven countries in which in-depth work will be conducted, including extensive first-hand field research in Brazil, India, Nigeria and Russia.

In July 2008 ERT travelled to Nigeria to gather preliminary information on discriminative policies and practices and deaths in custody in Nigeria; to establish contact with relevant civil society actors and organisations; to identify a consultant to conduct in-depth country

research; and to establish constructive dialogue with relevant government institutions. The team travelled to three major cities: Abuja, Enugu and Lagos and held consultations with eleven prominent NGOs and relevant independent and governmental institutions. In Abuja, the team met with representatives from the Constitutional Rights Centre, Open Society Justice Initiative, Ashoka and CLEEN Foundation, as well as representatives from the National Human Rights Commission and the Legal Aid Council. In Enugu, the team had meetings with Prisoner Rehabilitation and Welfare Action (PRAWA), an NGO that has done extensive research on prison conditions, and the Centre for Victims of Extra-judicial Killings and Torture (CVEKT). Also in Enugu, the team observed a group therapy session organised by PRAWA for those who had been released from prison asylums and were currently either in the federal psychiatric hospital or at home. Finally, in Lagos, the team met with lawyers working for the Civil Liberties Organization, the Network on Police Reform in Nigeria, Partnership for Justice, Access to Justice and Legal Defence and Assistance Project (LEDAP). Everyone provided the team with extensive information about their work, including detailed information about cases or extra-judicial killings or other suspicious deaths in custody that they had taken up in the past. They also discussed with the ERT team possible grounds and patterns of discriminative treatment that need to be further examined and investigated. Extensive information was also provided on the broader context in which these grave human rights violations take place and measures that are needed to remedy the situation. There was unanimity that ERT is engaged in

a very important project that all relevant civil society organisations should support.



Uchena Emenike tells ERT about his seven-year long detention in Enugu Prison Asylum

From 18 November to 4 December 2008 ERT visited Mumbai, Hyderabad and New Delhi in India to gather information on discriminative policies and practices and deaths in custody in India. In the preliminary research, the team had identified Maharashtra (state capital Mumbai) and Andhra Pradesh (state capital Hyderabad) as the two states on which to focus in this project, consistent with project methodology to conduct in-depth research in a small number of representative regions rather than in the entire country. Maharashtra was selected because Mumbai, the state capital and home to 20 million inhabitants, has a broad range of custodial facilities and provides an opportunity to examine in these settings a range of possibly discriminative practices. Andhra Pradesh was chosen for its history of developed civil society engagement in human rights protection as well as for being a state where more reforms have been initiated than in most other parts of India.

In the course of the visit, the team met with: (i) Lawyers working in human rights associations: the Human Rights Law Network, the

Committee for People's Democratic Rights (CPDR), the Human Rights Forum, the Andhra Pradesh Civil Liberties Committee (APCLC), People's Union for Civil Liberties (PUCL) and People's Union for Democratic Rights (PUDR); (ii) High court advocates who have worked on important public interest cases concerning deaths in custody and "encounter killings" and those who have chaired national commissions of inquiry into discrimination of Muslims and the drafting of an Equal Opportunities Act; (iii) Representatives of national human rights organisations, including the Asian Centre for Human Rights, the Commonwealth Human Rights Initiative, the South Asia Research and Documentation Centre and the International Environmental Law Research Centre; (iv) Academics who have conducted research into prison conditions or issues relevant to the project such as the provision of mental health care in custodial facilities; (v) Activists working for the protection of specific vulnerable groups, including disadvantaged caste or tribal based communities, children, people living with HIV/AIDS, Muslims and other religious minorities, women, people of different sexual orientation or gender identify and victims of commercial sexual exploitation. (Update: Ivan Fišer)

Project "Religious Diversity and Healthcare in Europe"

This project started in June 2008 with the aim of producing a thematic dossier mapping out the problem field on "The State, Religious Diversity and Healthcare in Europe". The project aims to provide better knowledge, identify problems, indicate possible solutions and give access to a range of strategies in relation to religious diversity and healthcare in Europe to facilitate and benefit practitioners, policy makers and civil society actors. In respect of religious discrimination

in healthcare provision, the project will scan and formulate the state of the play in respect to general healthcare (dietary requirements, clothing, burial ritual, male circumcision, equitable public facilities, organ/tissue donation, blood transfusion, smoking, etc.), sexual and reproductive health (contraception, abortion, infertility treatment, access to information, female genital mutilation, HIV/AIDS, STDs), and mental health. The project will also examine the thematic field from the angle of the healthcare implications of religious observance.

On 17 September 2008, in London, ERT organised a roundtable discussion attended by 20 national and thematic experts who have worked on the issue of religious diversity and healthcare or related discourses (such as migrant healthcare). The group was made up of nationals from a broad range of EU member states and two experts from the United States. The group included medical practitioners, human rights activists, religious leaders, lawyers, sociologists and anthropologists. The purpose of the roundtable discussion was to think critically about the issue at hand and to identify the major issues that are of central importance to the European Union context.

The discussion focused on four broad themes: (a) religious diversity and general healthcare; (b) religious diversity and mental healthcare; (c) religious diversity and sexual and reproductive healthcare; and (d) the State, religious diversity, healthcare and discrimination. The information gathered from the roundtable discussion will inform the main planned output of the project, a paper on religion and healthcare in Europe. (Update: Jarlath Clifford)

Project “Detention of Stateless Persons”

The project “Detention of Stateless Persons” started in May 2008 with the aim of strengthening the protection of stateless persons who are in any kind of detention or imprisonment due at least in part to their being stateless, and to ensure they can exercise their right to be free from arbitrary detention without discrimination. UNHCR and others have expressed the view that stateless persons should not be detained only because they are stateless. If detention has no alternative, its maximum length should be specified, based on strict and narrowly defined criteria. However, this principle has not been translated into international or national legal standards and into practice. Progress is hampered by a lack of information on cases of detention, including prolonged and indefinite detention, of stateless persons.

The project therefore pursues two interrelated objectives: (i) to document the detention, or other forms of physical restriction, of stateless persons (*de jure* and *de facto*) around the world; (ii) and to use this information to develop detailed legal analysis as a basis for international and national advocacy against the arbitrary detention of stateless people.

Between May and September 2008, the ERT team, under the supervision of Stefanie Grant, a senior expert who has been engaged as an advisor on this project, conducted a wide ranging consultation with international and national NGOs, lawyers and other experts in the human rights, forced migration and equality fields. Consultations confirmed that despite the lack of published information on the detention or physical restriction of stateless persons, the arbitrary detention of stateless persons, including

long-term detention, affecting those within the borders of a state in which they were born or habitually reside as well as those outside their country of residence (stateless refugees, asylum-seekers and migrants) is of concern in many countries.

In September-October 2008, ERT produced two discussion papers to guide work on the project, one legal mapping paper, which outlines the legal and conceptual framework for the project and a preliminary research paper, which draws upon information obtained through consultation to highlight cases of stateless persons in detention and put forward key research questions. On 29 October 2008, ERT presented the two working papers

to a group of fifteen experts specialising in equality law, human rights law, and refugee law. The purpose of this meeting was to develop the legal framework and strategic direction for the project. The meeting focused on three questions: (i) what is the definition, value, scope and limits of '*de facto* statelessness'; (ii) how can principles of equality be effectively used to strengthen protection of stateless persons in detention or restriction; and (iii) what value do the human rights treaties add to the statelessness regime? In the subsequent weeks, ERT adapted its project strategy to reflect the lessons learned in the consultations process. (Update: Katherine Perks)