

Update on Current ERT Projects

Law Enforcement Discrimination and Death in Custody

Launched in December 2007, this project has three main objectives: (i) to systematise the existing knowledge on the relationship between deaths in custody and discriminatory policy or conduct by law enforcement bodies; (ii) to enhance the global understanding of the nexus between deaths in custody and discrimination; and (iii) to develop and promote new advocacy tools to complement existing investigation techniques and standards. ERT works with researchers in Nigeria, India and the US to prepare materials for publication. The publications will fill a gap in existing writings and analysis on deaths in custody – raising questions on the links between deaths in custody, the identities of those who are dying and equality and discrimination issues, including discrimination in law enforcement. The research so far confirms the need to develop an analytical framework of discrimination and equality to assist law and policy makers, practitioners and campaigners in more effective prevention of deaths in custody. The research has revealed widespread patterns of human rights violations in several countries, including Nigeria and the USA, in which victims' vulnerability is a combination of race, socio-economic status, nationality and mental health status.

Stateless Persons in Detention

This project 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 or 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) to use this information to develop detailed legal analysis as a basis for international and national advocacy against the arbitrary detention of stateless people.

In July 2010, ERT published a comprehensive 260-page report entitled *Unravelling Anomaly: Detention, Discrimination and the Protection Needs of Stateless Persons*, which has provided a solid basis of its advocacy. Below is a summary of ERT's activities in this project since the publication of ERR Volume 5 (August 2010):

In late September 2010, ERT co-hosted a side event on "Protecting the Human Rights of Stateless Persons" during the 15th Session of the UN Human Rights Council in Geneva. Volker Türk, Director of International Protection at UNHCR and Tamás Molnár, Senior Legal Advisor at the Ministry of Interior of

Hungary were amongst the speakers at the event. In Geneva, ERT also had many meetings on the issue of statelessness with key human rights bodies including the UNHCR, the Office of the High Commissioner for Human Rights, the Committee Against Torture and the Committee on the Elimination of Racial Discrimination.

ERT has begun work in the USA in partnership with the Law Clinic of the American University of Washington School of Law. The Law Clinic with ERT's support will focus on engaging relevant US civil society organisations to prioritise statelessness in their work, providing training on statelessness and conducting advocacy to promote the O'Leahy draft Refugee Protection Bill which has a section on the identification and protection of stateless persons in the USA.

ERT's advocacy work in the UK is also ongoing. As a member of the Detention Forum, ERT was one of the co-signatories of a letter to Minister of Immigration Damien Green, calling for a review of the immigration detention system in the UK. In November 2010, ERT participated in the first Detention Forum Parliamentary Meeting at the House of Commons. This meeting was the first such organised by the Detention Forum to engage parliamentarians on the issue of immigration detention.

Project coordinator Amal de Chickera also spoke on the topic of "Statelessness and Immigration Detention" at the launch of the London Detainee Support Group report titled No Return, No Release, No Reason, in London. During this period, ERT has also had meetings with Asylum Aid and UNHCR UK, who are conducting a joint mapping project on statelessness in the UK, to discuss joint advocacy strategies.

In December 2010, Stefanie Grant represented ERT at the second UNHCR expert meeting on statelessness in Geneva. This meeting focussed on statelessness determination procedures and statelessness status.

Promoting Better Implementation of Equality and Non-discrimination Law in India

This project started in May 2009 with support from the UK Foreign and Commonwealth Office and in partnership with the Delhi-based Human Rights Law Network (HRLN). Its purpose is to build the capacity of NGOs and



(from left) Lord Lester of Herne Hill QC (UK), Justice Kate O'Regan (South Africa) and Justice Altamis Kabir (India) at the Judicial Colloquium in Delhi, 30 January 2011.



Participants at the Judicial Colloquium in Delhi, 30 January 2011

lawyers to implement equality and non-discrimination law and policy in India through the promotion of national, regional and international standards and best practice. ERT and HRLN have continued to work on a comprehensive handbook for paralegals and human rights lawyers on equality and non-discrimination law in India, presented from an international and comparative perspective, which will be published and distributed widely to lawyers, activists and members of the judiciary.

On 29-30 January 2011, ERT and HRLN hosted a Judicial Colloquium on Equality and Non-Discrimination Law at the Nehru Memorial Library and Museum in Delhi. The colloquium was attended by 35 Supreme Court and High Court judges from India, including the forthcoming Chief Justice of the Supreme Court A. Kabir J. The following international participants also attended: Joshua Castellino, Richard Hermer QC, Lord Lester of Herne Hill QC, Sapna Malik, Colm O'Conneide, Kate O'Regan, Elizabeth Palm, and Lord Walker of Gestingthorpe. The colloquium covered a broad range of topics including (1) recent equality and non-discrimination decisions from the Indian High Courts; (2) the Equality

Act 2010 and recent jurisprudence from the UK courts; (3) discrimination on the grounds of gender and sexual orientation in South Africa; and (4) race discrimination in Europe. The participants agreed that the colloquium provided an invaluable opportunity to share ideas and experiences relating to the development of equality and non-discrimination law and judicial practice.

Empowering Disadvantaged Groups in Kenya through Combating Discrimination and Promoting Equality

This project started in July 2009 with the aim of enabling Kenyan civil society organisations (CSOs) to be key players in building a national anti-discrimination regime. ERT is working with two Kenyan partner organisations, the Federation of Women Lawyers (FIDA-Kenya) and the Kenya Human Rights Commission, on a range of activities with the view to promoting the adoption of comprehensive anti-discrimination legislation, including the development of draft comprehensive anti-discrimination law and adoption of a joint civil society strategy for promoting equality.

Over the course of the summer 2010, ERT and its partner organisations developed a detailed "Legislative Map", providing the basis for a draft Anti-discrimination Bill. In October 2010, a simplified "Statement of Principles for Equality Law" was produced, to be used as the basis for securing support from a broad range of civil society actors for the introduction of a new equality law. In the period 18-28 October, ERT's expert consultant Barbara Cohen, together with a Kenyan consultant, Dr Sarah Kinyanjui, delivered three one-day workshops for community-based organisations (CBOs) in three regional hubs: Mombasa, Nakuru and Kisumu. Combining



Participants at the Judicial Colloquium in Delhi, 30 January 2011

training with awareness-raising, the workshops successfully secured CBO support for the Statement of Principles and their agreement to participate in awareness-raising activities.

Since October, ERT and its partner organisations have been engaged in sustained advocacy to build support for the adoption of a new Anti-discrimination Bill. Efforts have centred on the opportunity provided by the passage of the new Constitution, which requires the government to introduce legislation to establish a new Kenya National Human Rights and Equality Commission. ERT and its partners have taken the approach of arguing that this legislation must contain the substantive provisions for equality law included in the Legislative Map, if the Commission's mandate in respect of equality is to be effective. To this end, the project partners have met with the Kenya Law Reform Commission and participated in a roundtable convened by the current Kenya National Commission on Human Rights (KNCHR), where the proposals were well received. Following this, a statement containing a detailed response to proposals put forward by KNCHR was prepared, and advocacy aimed at securing the support of key stakeholders for the adoption of the partners' approach and the inclusion of the Legislative Map provisions in the new legislation has continued.

The project's penultimate workshop was delivered in Nairobi in February 2011, and targeted practising lawyers. The workshop combined technical training with awareness-raising about the importance of comprehensive anti-discrimination law among practising lawyers. The workshop was delivered alongside a public debate on the need for legal reform in the field of equality, and engaged political stakeholders and media. Plans

are currently being developed for a project visibility event to be held in London in March 2010, which will promote the project's approach and achievements, and seek to build support among equality lawyers for further work on anti-discrimination law as a means to alleviate poverty in developing countries.

The Unified Perspective on Equality and LGBT Rights

This project started in October 2009. Benefitting from the conceptual framework of the Declaration of Principles on Equality, the purpose of the project is to study the different existing and possible advocacy approaches to advancing LGBTI rights. As a part of this project, ERT is currently preparing a paper on LGBT rights and Islam and on advancing LGBT rights in countries with Islam, on the basis of the integrated framework on equality. In parallel, ERT is working on a paper looking at the role of equality and discrimination law in advancing LGBT rights in the countries of the Commonwealth.

Malaysia: Empowering Civil Society to Combat Discrimination through Collective Advocacy and Litigation

This project started in March 2010 with support from the European Commission and other funders, in partnership with the Kuala Lumpur-based NGO Tenaganita. Its purpose is to strengthen the role of Malaysian civil society in implementing equality and anti-discrimination provisions enshrined in the Federal Constitution, in line with international law. The project has two specific strategic objectives. They are: (i) to increase the capacity of civil society organisations and other professionals to improve the implementation of the right to equality and non-discrimination under the Federal Constitution and build a



Photo credit: Tenganita

Dimitrina Petrova, Andrew Khoo and Prof. Shad Faruqi at the Equality Forum, Kuala Lumpur.

national anti-discrimination regime through litigation and public advocacy work; (ii) to create an institutional framework for civil society dialogue and strategic interventions on equality and discrimination issues through establishing an Equality Forum.

The project has established an Equality Forum with the aim of providing CSOs with a platform for discussing equality and engaging in dialogue a variety of stakeholders. As of January 2011, three meetings of the Equality Forum have taken place with over 30 civil society organisations represented at each meeting. The third meeting took place on

29th January 2011, and Dimitrina Petrova, ERT Executive Director, gave a lecture entitled “Principles on Equality and European Approaches to Racial Equality”. Race discrimination is a key issue in Malaysia, where the Malay segment of the population enjoys a number of constitutionally guaranteed controversial privileges in key areas of life.

A baseline study which has been completed under this project provides an overview of civil society capacity and training needs. On the basis of this study, ERT and Tenganita are currently working towards a training workshop on equality and non-discrimination

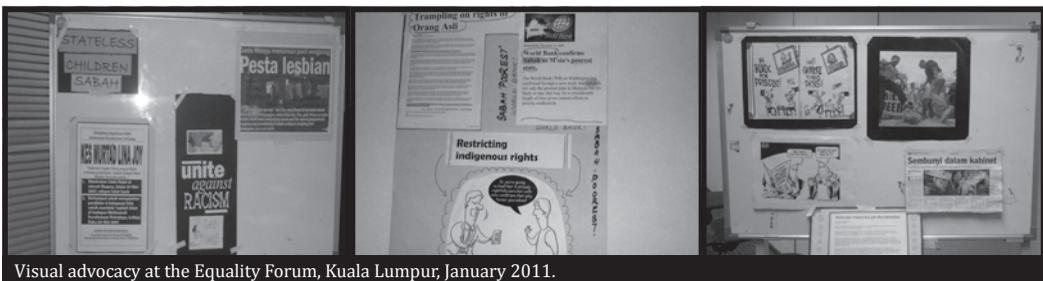


Photo credit: Tenganita

Visual advocacy at the Equality Forum, Kuala Lumpur, January 2011.



Dimitrina Petrova, Executive Director of ERT



Irene Fernandez, Executive Director of Tenaganita

Photo credits: Tenaganita

law which will take place in Kuala Lumpur in June 2011. Research is also underway with a view to publishing a report on equality and non-discrimination jurisprudence in Malaysia. The partners have also started to identify potential opportunities for intervention in strategic litigation cases involving the right to equality and non-discrimination in Malaysia.

Strengthening Legal Protection from and Raising Awareness of Discriminatory Ill-Treatment in the Republic of Moldova, including Transnistria

This project started in March 2010 with support from the European Commission and other donors, in partnership with the Moldovan organisation Promo-LEX. The purpose of this 18-month project is to contribute to strengthening the legal protection from discriminatory ill-treatment and raising awareness of stakeholders on discriminatory ill-treatment. The project has nine specific objectives:

1. To develop key litigation partnerships with other national NGOs specialised in promoting respect for the rights of vulnerable groups;
2. To improve the application of the international human rights principles of prohibition of ill-treatment and non-discrimination in domestic litigation;
3. To provide legal representation to victims of discriminatory ill-treatment before domestic and international courts;
4. To provide assistance in litigation to local partners;
5. To undertake legal capacity building efforts to develop knowledge and understanding of the civil society actors of the nature and extent of the discriminatory ill-treatment;
6. To engage in dialogues with partners and key state institutions;
7. To contribute to The Equal Rights Review;
8. To produce and disseminate a report on discriminatory ill-treatment in the Republic of Moldova, including Transnistria.

The project aims to achieve these objectives through the following activities; (i) identifying and developing strategic litigation cases; (ii) publishing a report on discriminatory ill-treatment in the Republic of Moldova, including Transnistria; (iii) translating and disseminating *The Equal Rights Review* to Moldovan stakeholders; and (iv) undertaking advocacy action through intervening with letters of concern before law enforcement bodies and local authorities to support individuals requesting investigation of the alleged discriminatory ill-treatment.

In August 2010, ERT delivered training to approximately 30 human rights monitors and other human rights defenders in Chişinău, Moldova. The focus of the training was the intersection of discrimination and ill-treatment, covering the relevant law, jurisprudence and special issues, as well as conducting monitoring on discriminatory ill-treatment. In September 2010, ERT sent letters to Mr Valeriu Zubco (Prosecutor General), Ms Valentina Buliga (Minister of Labour, Social Protection and Family) and Mr Victor Catana (Minister of Interior) in relation to the domestic violence cases of three female clients of Promo-LEX. The letters requested full implementation of the recent legislative amendments concerning the prevention and combat of family violence so as to protect these victims of domestic violence from the harm they continue to suffer at the hands of the perpetrators.

In November 2010, project coordinator Libby Clarke represented ERT at the Launch Event of *The Equal Rights Review* in Romanian. The event took place in Chişinău and was well-attended by approximately 30 young lawyers and judges. Libby Clarke gave an introduction to *The Equal Rights Review*, explaining the philosophy behind the journal and its

key role within ERT's strategy. She then introduced *The Equal Rights Review* Volume Four, the first volume to be translated into Romanian, focusing on the importance of



(from left) Olga Manole (Promo-Lex), Libby Clarke (ERT) and Doina Straisteanu (Promo-Lex) at a public event in Chişinău, November 2010.

Photo credit: Promo-Lex

the unified perspective on equality for those promoting LGBT rights. Doina Ioana Straisteanu, the lawyer with responsibility for this project at Promo-LEX, then gave a lecture on domestic violence against women in Moldova, focusing particularly on the weak enforcement of the domestic legal provisions which should serve to prevent such discriminatory ill-treatment.



Dr Krassimir Kanev conducting interviewing skills training at ERT seminar, Chişinău, 3 August 2010.

Photo credit: Promo-Lex

As part of this project, ERT and Promo-LEX will produce a *Report on Discriminatory Ill-Treatment in Moldova*. The work on the substantive chapters for the report has been carried out by a team of monitors who have been appointed by Promo-LEX. A further aspect of this project involves ERT and Promo-LEX working together in support of selected strategic litigation cases. The Promo-LEX team has identified some potential cases which are currently being dealt with in the domestic courts, including (i) a domestic violence case involving a 71-year old woman; (ii) a trafficking case involving sexual violence against three minor females from Transnistria; (iii) a case involving the suicide of a homosexual man after he received threats from a police officer; and (iv) the death of a disabled man in a medical institution.

Discrimination and Torture in Nigeria

In August 2010, ERT commenced this project with support from the United Nations Voluntary Fund for Victims of Torture (UNVFVT) in order to provide practical and legal assistance to 20 victims of torture arising from discrimination in Nigeria. ERT and its partners in Nigeria have developed case briefs outlining the assistance needed by 20 victims of torture, and have subsequently procured the assistance set out in the briefs, which included filing legal claims for compensation in all cases, and providing medical, psychological or social assistance in some of the cases, as required by the circumstances.

Promoting LGBTI Rights in Kenya in a Unified Equality Framework

This project started in October 2010 with support from the Arcus Foundation. The purpose of the project is, during one planning and pilot year, to establish a working partnership

between The Equal Rights Trust (ERT), the Gay and Lesbian Coalition of Kenya (GALCK) and the Kenyan Human Rights Commission (KHRC) to develop strategies for improving the legal protection of LGBTI people in Kenya and promoting equality inclusive of sexual orientation and gender identity. The project is based on the assumption that advocacy of LGBTI rights can benefit from employing the unified framework of equality advocated by ERT and enshrined in the 2008 *Declaration of Principles on Equality*.

In late November and early December 2010, ERT Executive Director, Dimitrina Petrova, undertook a ten-day field mission in Kenya, visiting Nairobi, Mombasa and Turkana District. The mission provided the opportunity for ERT to collect testimony and undertake documentation of patterns of discrimination in Kenya, principally investigating discrimination against LGBTI persons as well as ethno-regional discrimination affecting those living in the remote and marginalised Turkana District in north-eastern Kenya. The field research will feed into the handbook on combating discrimination and the feasibility study which will be the outputs of the project.

Embedding Equality under Kenya's New Constitution

This project started in October 2010, in partnership with the Kenya Human Rights Commission. The project envisages the development of a detailed country report on discrimination in Kenya; delivery of training to judges, health and education professionals and certain categories of MPs; development of six strategic litigation cases on new elements of the law introduced by the new Constitution; and development and delivery of a public awareness “Your Rights” campaign

about the scope of the right to non-discrimination under the new Constitution.

In the period October – December 2010, substantial progress was made on the desk research and drafting phase of the country report on discrimination. In the project's next phase, an ERT consultant/staff member, together with a Kenyan consultant, will undertake a 10-day research visit to secure testimony to augment the report, in advance of its publication in the second quarter of 2011.

Empowering Civil Society in Sudan to Combat Discrimination

This project started in October 2010 with support from the European Commission. It aims to develop civil society capacity to advocate for improved protection from discrimination through delivery of training, development of a country report on discrimination, and establishment of a civil society coalition to undertake advocacy. In so doing, the project aims to increase the space available for civil society advocacy on human rights issues, in a society where civil society freedoms have been severely restricted in recent years.

Given the difficult conditions in Sudan at the present time (including the referendum on independence for Southern Sudan which took place in January 2011), ERT and its partner organisation, the Sudanese Organisation for Research and Development (SORD), undertook a detailed planning and risk assessment exercise. The conclusions were that the project activities remained deliverable, but that specific advocacy priorities would need to be identified with great care in order to ensure their deliverability. The partners are currently carrying out a baseline study, which involves desk research on patterns of discrimination and inequality, a legal audit

and an assessment of the capacity and needs of civil society. The planning for three training workshops to be held in 2011 is also underway.

Guyana: Empowering Civil Society to Challenge Homophobic Laws and Discrimination against LGBTI Persons

This project commenced in October 2010 with support from the European Commission. It focuses on building the capacity of civil society to challenge discrimination against LGBTI persons, by both increasing the technical skills and capacity of LGBTI organisations and by fostering improved cooperation between LGBTI organisations and other human rights NGOs. The project involves the delivery of training in human rights law and anti-discrimination law, the establishment of a civil society forum and the development of a country report.

ERT's project partners, the Society Against Sexual Orientation Discrimination (SASOD), spent the first six weeks of the project recruiting staff and hiring premises. In early December 2010, Jim Fitzgerald, ERT's project officer for this project, visited Georgetown, Guyana, for a three day planning visit. During the visit, the partners made plans for the completion of the Baseline study, discussed project implementation and agreed the format of the project training workshops and roundtable. In addition, Jim met with a wide range of civil society stakeholders and undertook research which will feed into the baseline study. Plans have been made for the delivery of workshops in April 2011 by Professor Michael O'Flaherty (University of Nottingham), a member of the UN Human Rights Committee, and Dimitrina Petrova, ERT Executive Director.

Indonesia: Empowering Civil Society to Use Non-discrimination Law to Combat Religious Discrimination and Promote Religious Freedom

This project started in November 2010 with support from the European Commission. It focuses on building the capacity of civil society actors to tackle discrimination against religious minorities, and entails the development of a country report, establishment of a civil society forum and delivery of training. The project builds on the work of a number of civil society actors to challenge blasphemy laws which severely restrict the religious freedom of certain groups, by increasing their capacity to use anti-discrimination law in their advocacy and litigation.

In November, ERT undertook detailed planning discussions with the project partners, the Indonesian Legal Aid Institute (YLBHI) and the Institute for Policy Research and Advocacy (ELSAM). ERT produced guidelines for the completion of the project baseline study, which ELSAM is currently using as the basis for desk research on patterns of discrimination and inequality, while YLBHI is undertaking research on the capacity and needs of Indonesian civil society. In February 2011, ERT travelled to Indonesia for planning meetings with the partners and for meetings with other stakeholders, in preparation for seminars on equality and non-discrimination law in the coming months.

Developing Resources and Civil Society Capacities for Preventing Torture and Cruel, Inhuman and Degrading Treatment of Persons with Disabilities in India and Nigeria

This project started in November 2010 with support from the European Commission and

the UN. It focuses on the widespread practice of torture and inhuman and degrading treatment of persons with disabilities in India and Nigeria. The project will run in parallel in both India, with Human Rights Law Network (HRLN) as partner, and Nigeria, with Legal Defence and Assistance Project (LEDAP). The project envisages the production of a Re-



ERT Legal Officer Libby Clarke (second from right) during a visit of partner NGO LEDAP, Lagos, 11 January 2011.

Photo credit: The Equal Rights Trust

source Pack on torture and inhuman and degrading treatment of persons with disabilities in each of India and Nigeria, two training workshops in each country, participation in litigation and an advocacy campaign focused on improving legislative protection for persons with disabilities against torture and inhuman and degrading treatment.

In January 2011, ERT Executive Director, Dimitrina Petrova, and project coordinator Libby Clarke visited Lagos, Nigeria, to hold planning meetings during which preparations for the first year were finalised. Libby Clarke held a similar meeting with HRLN in Delhi in late-January 2011. At present, baseline studies are being carried out in each country. The baseline studies will assess the current legal framework relating to the torture and inhuman and degrading treatment of persons with disabilities and civil society

capacity for identifying instances of such ill-treatment and for providing meaningful representation to the victims.

Empowering Civil Society in Belarus to Combat Discrimination and Promote Equality

This project started in December 2010 with support from the European Commission and other donors. A baseline study to underpin

work on this project is currently being produced. ERT Executive Director, Dimitrina Petrova travelled to Minsk in February 2011 to attend a planning meeting with ERT's informal partners, the Belarusian Helsinki Committee. The project envisages, inter alia, documentation of discrimination patterns, focusing on five vulnerable categories of persons: women, ethnic minorities, religious minorities, LGBT persons and persons with disability.