

# Update on Current ERT Projects

## Project “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 has worked 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 – including discrimination in law enforcement. They will demonstrate that the analytical framework of discrimination and equality can assist law and policy makers, practitioners and campaigners to identify changes that will contribute to more effective prevention of deaths in custody. The publications will focus on widespread patterns of human rights violations in Nigeria and the USA, in which victims’ vulnerability are combinations of race, socio-economic status, nationality and mental health status.

In the first half of 2010, ERT has built on its work under this project to develop further steps in the area of discriminatory torture and cruel, inhuman or degrading treatment. Lessons learnt are being transferred onto projects currently under development, in-

cluding in India, Moldova, Nigeria and Yemen.

## Project “Detention of Stateless Persons”

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.

Below is a summary of ERT’s activities in this project since the publication of ERR Volume 4 (December 2009):

The year began with the publication of two country reports, based on ERT’s field research:

1. *“Trapped in a cycle of flight: Stateless Rohingyas in Malaysia”*, on 5 January 2010.

2. *“From Mariel Cubans to Guantanamo Detainees: Stateless Persons Detained Under U.S. Authority”*, on 19 January 2010.

During the course of this reporting period, the final project report was developed through many stages of editing and expert review. After an internal review process, the report was shared with a group of experts in the fields of nationality and statelessness, refugee law, equality, non-discrimination and human rights, and detention. This was followed by a further stage of review and editing in order to finalise the report for publication in July 2010.

In July 2010, ERT published a 300-page report entitled *Unravelling Anomaly: Detention, Discrimination and the Protection Needs of Stateless Persons*. The report is also available online at the ERT website.

During January-June 2010, ERT project staff participated in and contributed to many related activities. Lead researcher and project coordinator Amal De Chickera conducted a session on the detention of stateless persons at the University of Oxford, Refugee Studies Centre’s Short Course on Statelessness on 18 April 2010. Senior project advisor Stefanie Grant and Amal De Chickera participated in the UNHCR Expert Meeting on the Concept of Statelessness under International Law on 28–29 May 2010. The meeting which was held in Prato, Italy, focussed on the definitions of *de jure* and *de facto* statelessness. On 15 June 2010, Amal De Chickera spoke at launch of the UNHCR photography exhibition *“Living Silence: Rohingya Refugees in Bangladesh”* in London. He also participated in the Annual UNHCR NGO Consultation in Geneva, at which he acted as Rapporteur for the ses-

sion on statelessness on 30 June 2010. ERT also joined the Detention Forum – a forum of organisations in the UK which work on behalf of immigration detainees – to further its advocacy work on behalf of stateless persons in immigration detention in the UK.

### **Project “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). The project will run until March 2011 and its purpose is to build the capacity of NGOs and 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 comprehensive handbook for paralegals and human rights lawyers on equality and non-discrimination law in India, presented from an international and comparative perspective, and will deliver a second training session for lawyers and activists on the same subject. A team of researchers are drafting sections of the handbook covering, gender, disability and sexual orientation discrimination. First drafts have been received and are currently being edited internally. Work has also begun on drafting chapters on sections of the handbook covering race/ethnicity, religion, and caste.

On 12 - 13 December 2009 the project delivered the first of its two planned training workshops, reported in a separate material in *The Equal Rights Review, Volume 4*. Workshop Two will take place on 20 – 21 November 2010 in Delhi and is currently under preparation. It will focus on training judges

and some lawyers from India on equality law concepts, enforcement, discrimination on grounds of race and ethnicity, discrimination on grounds of religion and belief and discrimination on grounds of caste.

**Project “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 local partner organisations 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 lobbying strategy.

A detailed report on the project is included in the Special section of this issue of *The Equal Rights Review*.

**Project “Promoting LGBT Rights in a Unified Equality Framework”**

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 draft a study which maps out the different existing and possible advocacy approaches to advancing LGBTI rights, particularly in countries with strong Islamic cultures, on the basis of the integrated framework of equality of rights. The project will produce a study which will explore:

1. Are there any advantages in applying the unified perspective on equality in defending LGBTI rights?

2. If the answer above is positive, are these advantages relevant to countries with Islam and other (particularly African) countries where there exists strong resistance to a liberal rights approach?

A draft study was finalised in May 2010. The study examined (i) the challenges in the LGBTI struggles; (ii) defending LGBTI rights through Islamic principles; (iii) legal strategies for defending LGBTI rights using the Declaration of Principles on Equality and progressive Islamic principles; and (iv) political and practical strategies for defending LGBTI rights using the Declaration of Principles on Equality and progressive Islamic principles. The draft study is currently going through a cycle of expert reviews.

**Project “Malaysia: Empowering Civil Society to Combat Discrimination through Collective Advocacy and Litigation”**

This project started in March 2010 with support from the European Commission in partnership with the Malaysian based NGO Tenaganita. The project will run until September 2011 and 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:

1. 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 national anti-discrimination regime through litigation and public advocacy work;

2. To create an institutional framework for civil society dialogue and strategic intervention on equality and discrimination issues through establishing an Equality Forum.

Since the start of the project, the project team have been conducting a baseline study through drafting an equality law and policy questionnaire and disseminating it to civil society organisations in Malaysia. Preparations are also underway to establish an Equality Forum – the second strategic objective of the project. Over the 18 month period the project will:

- Publish a review of national equality and non-discrimination jurisprudence;
- Establish a bi-monthly NGO Equality Forum;
- Conduct an intensive training workshop on equality and non-discrimination law;
- Intervene in strategic litigation cases involving the right to equality and non-discrimination;
- Conduct a roundtable discussion with civil society organisations, government stakeholders, judiciary and prosecutors on the current status of equality law in Malaysia.

### **Project “Strengthening Legal Protection from and Raising Awareness of Discriminatory Ill-Treatment in Republic of Moldova, including Transnistria”**

This project started in March 2010 with support from the European Commission, in partnership with the Moldovan NGO 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 strategic objectives. They are:

1. To develop key litigation partnerships with other national NGOs specialised in promoting respect for the rights of vulnerable groups;
2. To increase 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 re-

questing investigation of the alleged discriminatory ill-treatment.

In the period since March 2010, a monitoring network was established and a training course on discriminatory ill-treatment was

prepared and delivered in early August by ERT in Chişinău. The course trained 25 human rights advocates on issues in the intersection between equality law and the right to be free from torture and other ill-treatment.