

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 its final report, whose publication is forthcoming. The report 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. The report will argue that used correctly, the analytical frameworks 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 report will cover several 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. It will be a call for policy makers, practitioners and campaigners to use discrimination and equality frameworks in their work, their research and their analysis.

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 documentation efforts in a number of countries and regions where stateless persons are at risk of detention since the publication of ERR Volume 3 (June 2009):

a. *United Kingdom*: ERT has undertaken a review of relevant UK legislation, policy and jurisprudence; established contact with relevant UK experts and support/activist groups

working with detainees; established contact with key government bodies, including submission of a series of formal questions to the UK Borders Agency; established contact with a number of stateless detainees; and undertaken a number of interviews with stateless detainees.

b. *USA*: ERT has worked on a report on the immigration and security based detention of stateless persons in the USA containing a unique perspective on issues of security detention, including the Guantanamo detainees.

c. *Stateless Rohingya (South and South East Asia)*: Field research was conducted and testimony collected from Rohingya persons in Myanmar, Thailand, Malaysia and Bangladesh. ERT worked on a report on the situation of stateless Rohingya in Malaysia.

d. *Kenya*: The Kenya researcher conducted interviews with stateless persons in immigration detention in Nairobi and also travelled to the northern and coastal areas of Kenya to profile and interview stateless populations in the regions, and he submitted his research in September 2009.

e. *Egypt*: Two researchers who were commissioned by ERT in May to carry out research on stateless persons in detention in Egypt submitted their research in September 2009.

f. *Australia*: In June 2009, ERT contracted the Refugee Council of Australia (RCOA) to conduct research on immigration and security detention in Australia, particularly focusing on the new policy being introduced by the incumbent government.

g. *Stateless Palestinians*: In June 2009, ERT enlisted students from the UCL Student Human Rights Programme to conduct research

into the different contexts of Palestinian statelessness. They submitted their research in October 2009.

In September 2009, the project coordinator, Amal De Chickera, presented a paper on protecting stateless persons in detention, 'Protecting people in conflict and crisis: responding to the challenges of a changing world', at University of Oxford's Refugee Studies Centre.

The final project publication is in the process of being reviewed by independent experts.

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 final report, Religion and Healthcare in the European Union: Policy Issues and Trends, was published in September 2009. The report covers a number of issues ranging from euthanasia to fertility treatment, from belief-based exemption for doctors to perform abortion to medication and dietary needs of religious patients, from organ donation to contraception, and from circumcision to suicide. On these issues, a major challenge of health policy is balancing fundamental human rights such as the right to equality, the right to health and the right to freedom of religion, while adhering to secular principles. This challenge is common across the European Union where key issues relating to healthcare policy have been influenced by religion and have had to accommodate religion.

The report identifies policy trends and needs for policy development in areas of general, sexual and reproductive, and mental health-

care. Taking stock of the current legal basis of health policy in the European Union, the analysis is based on the integrated framework on equality as expressed in the 2008 Declaration of Principles on Equality. The report provides a platform for discussion on how the religious needs of the community, religious doctrines, and religious practices in the European Union region affect public health policy, and how such policy ought to be shaped in order to ensure equality in healthcare.

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 will produce a 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 two training sessions for lawyers and activists on the same subject. A team of four researchers based at HRLN have been recruited to draft substantial sections of the handbook covering, gender, disability and sexual orientation discrimination. First drafts have been received and are currently being reviewed.

On 12 - 13 December 2009 the project delivered the first of its two planned training workshops – reported in a separate material in this volume. Participants received inten-

sive training over two days with a general introduction to fundamental concepts in discrimination law; special thematic sessions on discrimination on grounds of sex, sexual orientation and disability, and the role of monitoring and enforcement bodies. The participants were lawyers and paralegals already engaged in human rights work, including individual casework and litigation, from all regions of India. The second training session is scheduled to take place in late 2010.

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.

In September 2009, ERT held an initial planning meeting with its partners, the Federation of Women Lawyers (FIDA) and the Kenyan Human Rights Commission (KHRC) to discuss strategies and approaches for developing comprehensive anti-discrimination law in Kenya. This allowed the partners to assess the opportunities and challenges presented by, among other things, the rejection of the draft Equal Opportunities Bill by the Cabinet and the new Harmonised Draft Constitution, which was published for consultation in November. In the final quarter of 2009, the partners undertook a baseline survey to assess the awareness and capacity of civil society to promote anti-discrimination law and developed an audit of equality and

non-discrimination legislation and jurisprudence.

The partners worked to prepare a roundtable in Nairobi in January to bring together key stakeholders for a preliminary discussion on the potential for and desired content of new equality legislation and to discuss strategies

for its adoption. Alongside the roundtable, the partners prepared to deliver a training workshop for NGO staff on the use and application of discrimination law concepts. This will be followed by a study visit to the UK for a small group of Kenyan specialists, and further training workshops delivered in Kenyan cities outside Nairobi.