Update on Current ERT Projects

Greater Human Rights Protection for Stateless Persons in Detention

The purpose of this project, which started in 2008, is to contribute to strengthening the protection of the equal rights of stateless persons, particularly in the context of immigration, security and criminal detention.

ERT has continued its advocacy through participation in working groups and discussion forums relating to the issue of statelessness. In July 2011, ERT attended the first meetings of both the UK Working Group on Statelessness and the European Network on Statelessness (ENS). ERT continued to be an active member of the UK Detention Forum, attending Detention Forum meetings and in September 2011, signing a joint letter to the Home Affairs Select Committee on unlawful immigration detention in the UK. A previous joint letter submitted in April 2011 to the Joint Committee on Human Rights, requested the Committee to revisit its 2007 report on Detention. This letter has been responded to and the Committee has stated that this is one of the possible inquiries being considered for early 2012. In November 2011, ERT made a stakeholder submission for the Universal Periodic Review of the UK, which focused on the most significant concerns and challenges with regard to the human rights of stateless persons. In December 2011, ERT attended a two day meeting of ENS, at which various decisions were taken with regard to the ENS focus, strategy and planned activities over the next two years; and a UNHCR/All Party Parliamentary Human Rights Group panel discussion on statelessness. ERT continued to act as an advisor to Asylum Aid and UNHCR in the delivery of their statelessness mapping project. ERT provided feedback on the final draft of the Asylum Aid and UNHCR report – Mapping Statelessness in the United Kingdom – which was subsequently launched in November 2011.

ERT commenced its programme of training for UK-based NGOs on statelessness in the UK with a workshop at the Barrow Cadbury Trust in London on 6 January 2012. ERT, Asylum Aid and Detention Action were the workshop implementers, and the participants were members of the UK Detention Forum and other London based NGOs and legal practitioners.

Following the publication of ERT’s Draft Guidelines on the Detention of Stateless Persons (the Guidelines) and accompanying Commentary in Volume 7 of this journal, a consultation process took place in which the 7000 plus recipients of the journal and over 100 experts in the complementary fields of human rights, equality, immigration, detention, refugees and statelessness were asked to provide their review and feedback. Additionally, the Guidelines were disseminated through four specialist networks on refugees and asylum and detention, and through this process, the Guidelines have reached more than 500 additional experts. The Guidelines were widely acknowledged and welcomed as a timely and positive development, which could have a significant impact on existing law and policy. A further draft of the Guidelines was then prepared, taking into account the feedback received during the consultation process, including from the UNHCR. This draft was circulated amongst a smaller group
of experts and a roundtable discussion was held on 14 December. The Guidelines have now been finalised and will be published in the coming months.

The outcomes and impact of this project so far include: (1) integrating statelessness as a key issue of the international movement to end arbitrary detention – ERT has worked in close partnership with the International Detention Coalition, UNHCR, OHCHR and other key players to highlight statelessness as an important issue which must be addressed by immigration detention regimes; (2) developing standards relating to the identification and detention of stateless persons through ERT’s Guidelines on the Detention of Stateless Persons; (3) changing attitudes of civil society towards statelessness through trainings, networking and capacity building, including through ERT’s UK training workshops, the establishment of the ENS and ERT’s active participation in key NGO networks including the Asia Pacific Refugee Rights network, the International Detention Coalition and the UK Detention Forum; (4) filling a documentation and knowledge gap on statelessness – ERT’s report Unravelling Anomaly has been widely acknowledged as a key text on statelessness which has filled a research gap and serves as a useful resource to academics, activists and policy makers. The focus on detention and the highlighting of the connection between statelessness and lengthy immigration detention has resulted in many organisations addressing immigration detention from a statelessness perspective; and (5) promoting statelessness as a human rights issue – ERT continues to raise human rights concerns with regard to the treatment of stateless persons at different international forums, including most recently, at the Universal Periodic Review of the United Kingdom.

The Unified Perspective on Equality and LGBT Rights

In September 2009, ERT launched a project aimed at showing how the unified approach to equality can enhance LGBT rights. One aspect of this project is to explore the possibility for promoting LGBT equality in countries with Islam. The work under this project will produce two published outputs: an article in a forthcoming book focusing on the use of equality and non-discrimination law in advancing LGBT rights in countries of the Commonwealth, with a special reference to the decriminalisation of same sex conduct; and a study on LGBT equality in countries with Islam, including secular states. The editorial process for both publications is currently underway. A second draft of a paper on LGBT rights and Islam is undergoing consultations.

The expected outcomes of this project include: (1) better understanding among civil society and other actors of the potential of using equality law principles and concepts in efforts to decriminalise same sex sexual conduct; (2) better understanding of the strategic choices for enhancing LGBT equality in countries with Islam; and (3) improved dialogue between LGBT groups, faith-based actors and civil society, particularly human rights organisations.

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

This project commenced in November 2010 with partner organisations in India (Human Rights Law Network – HRLN) and Nigeria (Legal Defence and Assistance Project – LEDAP). Its overall objective is to reduce the incidence of torture and ill-treatment of persons with disabilities.
The project envisages publication of two resource packs on disability and torture (one covering each of India and Nigeria), which will describe patterns of torture and ill-treatment of people with disabilities in India and Nigeria identified in the course of field research, present legal research and analysis bringing together relevant international, regional and domestic law and jurisprudence on disability and torture, and make recommendations for change to address the problems identified in the baseline report carried out in the first half of 2011. National consultants carried out field research in India and Nigeria between June 2011 and January 2012. Work has commenced on the drafting of the resource packs to be published in October 2012.
In November and December 2011, the first round of capacity-building training workshops for civil society activists and lawyers took place in Delhi and Lagos respectively. The workshop programmes were similar in both countries, and addressed: (i) international and comparative laws and standards which prohibit the discriminatory torture and other forms of ill-treatment of persons with disabilities; (ii) the provisions in national legislation and jurisprudence on, or related to, the protection of persons with disabilities from discriminatory torture and other forms of ill-treatment; (iii) the different tools, including strategic litigation and advocacy, which can be used to improve the content and implementation of the domestic protection of persons with disabilities from discriminatory torture and other forms of ill-treatment, having regard to both international and domestic legal obliga-
tions; and (iv) the potential for, and benefits of, collaboration with other organisations to further the aims and objectives of the project. The workshops were well-received by all participants who are now fully engaged in the project’s objectives and keen to work closely with ERT, HRLN and LEDAP, especially in relation to identifying strategic litigation cases, supporting research and participating in advocacy actions over the forthcoming months. Further workshops for the same group of participants will take place in November 2012.

During their visits to India and Nigeria respectively, the project manager and the senior project advisors visited CSOs working in the field of disability rights and also institutions, including a leper colony in Delhi and a home for children with disabilities in Lagos. This enabled the project team to witness first-hand the issues which have been raised in the reports and testimonies provided by the national consultants.

A further aspect of the project is to support strategic litigation concerning the ill-treatment of persons with disability. HRLN and LEDAP have started to identify potential cases in accordance with the case selection criteria devised in line with the project’s objectives. In India, HRLN has lodged four cases in relation to which ERT is preparing legal briefs. The first relates to the appalling conditions in the Asha Kiran home, the only institution housing children and adults with physical and psycho-social disabilities in Delhi. The failure of the government to provide food, water, clothing, basic hygiene, and necessary medical care to residents in Asha Kiran has not only amounted to inhuman and degrading treatment, but
has also resulted in numerous deaths over several years, reaching a climax in February 2010 when 26 children died within a span of two months. The second case relates to the licensing of psychiatric hospitals in Karnataka and the failure to ensure adequate standards of care. The inadequate facilities include an absence of qualified psychiatrists and unhygienic conditions which have led to deaths in the facility documented in a Karnataka State Human Rights Commission Report and local media reports. The third case involves the tying and beating leading to death of a man perceived to have psycho-social disability, by the Railway Police at a train station. The fourth case is a public interest litigation in which HRLN is challenging guidelines published on mental health in the Delhi jails. The guidelines are considered to be inadequate to protect persons with disabilities from discriminatory ill-treatment in prison settings. LEDAP and ERT are currently in the process of analysing potential cases in Nigeria against the project’s case selection criteria.

ERT has also identified key advocacy priorities in both India and Nigeria which will be acted on during 2012. In India, a new Disability Bill, drafted by a civil society coalition, is currently before the government for consideration. This draft bill aims to improve upon the current Persons with Disabilities Act 2005 which does little to implement India’s obligations under the Convention on the Rights of Persons with Disabilities (CRPD). ERT will work closely with HRLN, which has been actively involved in the drafting of the bill, to advocate for its adoption and implementation. In Nigeria, a disability bill which would effectively enact many of Nigeria’s obligations under the CRPD and has been passed by the legislature, still awaits the President’s signature. ERT wrote to Nigeria’s President in the first half of 2011 to urge him to sign the bill into law, but this step has yet to be taken. ERT plans to engage in further advocacy alongside LEDAP and other disability rights organisations in Nigeria to encourage the President to enact this bill.

The main outcome achieved under this project during its first
year was that the two workshops provided increased knowledge and skills to 35 participants in India and 40 participants in Nigeria which is key to the success of the project activities and the achievement of the project objectives. All participants in the two training workshops reported that they were valuable and they will now be fully engaged in the planning and implementation of project activities during the second year of the project. ERT hopes to achieve further outcomes and impact during 2012 through the publication of the Resource Packs, the ongoing legislative advocacy and the development of strategic litigation cases.

**Strengthening Human Rights Protection of the Rohingya**

In March 2011, ERT began to implement this 30-month project, the overall objective of which is to strengthen human rights protection for the Rohingya. Since August 2011, the project team has carried out preparations and subsequently begun to implement the research phase of this project. Scoping visits were carried out by the ERT project team to Bangladesh (24-29 July), Malaysia (19-24 September), Thailand (24-30 September) and Singapore (30 September-2 October). The outcome of the scoping visits is that strong foundations have been laid for cooperative and collaborative approaches between many types of in-country actors during the research phase of the project.

An Advisory Group meeting was held in London in November 2011. This was followed by a Management Committee meeting, which looked forwards to the management structures and procedures that should be in place for the coming research phase. A research workshop was held on 13-14 January 2012 at Mahidol University in Bangkok, Thailand. It brought together a team of ten participants from six countries to collectively finalise the research plan and approach across all project countries.

**Applying Equality and Non-discrimination Law to Advance Socio-Economic Rights**

This thematic project started on 1 July 2011 and will contribute to building strategies of better enforcement of economic and social rights through drawing and communicating lessons from a global review of jurisprudence and policies which have used equality and non-discrimination law to advance the realisation of social and economic rights. The planning process for the project is complete, with the establishment of an Advisory Committee comprising Daniel M. Brinks, Brun-Otto Bryde, Sandra Fredman, Bob Hepple, Sandra Liebenberg, Kate O’Regan, Denise Réaume, and Kamala Sankaran; and the drafting of a concept note which proposes a skeleton argument for the content of the final report and a process for production of the report. ERT has begun to carry out an initial review of relevant case law, with cases analysed and categorised according to the report’s skeleton argument.

The envisaged main output of this project is a report containing practical advice as to how equality arguments can be used to advance the implementation of economic and social rights and a compendium of case law examples of where this has been done successfully. The report will serve as a resource for human rights activists working to promote economic and social rights. It will provide additional and/or alternative arguments on which human rights activists can rely in seeking to further the enjoyment of economic and social rights in the courts. In doing so, the report will enhance the ability of such activists to achieve the notoriously
difficult objective of advancing economic and social rights.

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

This project started in May 2009 and most activities including research and capacity building events were concluded in the second half of 2011. It was implemented in partnership with the Human Rights Law Network (HRLN) with the objective of developing the capacity of Indian NGOs, lawyers and judiciary to implement equality and non-discrimination law through promotion of national, regional and international standards and best practice.

In July-September 2011, ERT project officer supported by HRLN and ERT colleagues and volunteers from University College London drafted a report on equality and non-discrimination law in India which will be published during 2012. The report will be distributed within India, to human rights activists, lawyers and members of the judiciary, and it is hoped that it will be a valuable resource both for future advocacy efforts and for those representing clients in cases involving issues relating to equality and non-discrimination. The report will also serve as a resource for those individuals who attended a training workshop in December 2009 and a judicial colloquium in January 2011 in their ongoing work in the field of equality and non-discrimination.

The outcomes of the project so far include: (1) an increased capacity on modern equality law among civil society organisations, lawyers and judges, achieved through training of NGOs and lawyers (Mumbai, 2009) and a judicial colloquium for judges of the Supreme and High courts of India (Delhi, 2011); and (2) a tangible impact on the capacity of Indian lawyers and civil society organisations to litigate equality cases in India.

**Kenya 1: Empowering Disadvantaged Groups through Combating Discrimination and Promoting Equality**

In July 2009, ERT started work on this project with the purpose to enable Kenyan civil society organisations to be key players in building a national anti-discrimination regime. The project activities were implemented by September 2011. ERT worked with two local partner organisations – the Federation of Women Lawyers (FIDA-Kenya) and the Kenya Human Rights Commission (KHRC), on a range of activities, with a view to promoting the adoption of comprehensive anti-discrimination legislation, including the development of a draft comprehensive law and the adoption of a joint advocacy strategy. Since October 2010, ERT and its partner organisations have engaged in sustained advocacy to build support for the adoption of a new equality bill. Efforts 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 took the approach of arguing that this legislation must contain the substantive provisions for equality law included in the Legislative Map, a document of principle agreed among Kenyan civil society organisations, based on the Declaration of Principles on Equality.

ERT continued to support its partners in their advocacy efforts during 2011, in the context of a rapidly evolving debate about the establishment of a new institutional regime to govern human rights and equality issues. In August 2011, ERT met with partners and other key players, notably Com-
missioner Lawrence Mute of the Kenyan National Human Rights Commission, to discuss prospects and advocacy strategies related to equality in the forthcoming years. In late August 2011, the Kenyan Parliament passed three Bills establishing: (i) the National Gender and Equality Commission; (ii) the Kenya National Commission on Human Rights; and (iii) the Commission on Administrative Justice. Powers related to equality and non-discrimination with respect to gender, including investigative powers, are given to the National Gender and Equality Commission, with the Kenya National Commission on Human Rights holding the same powers in relation to all other human rights issues. Following the passage of this legislation, ERT analysed the Acts highlighting that they lack definitions of discrimination. This means there is a need for further advocacy for the adoption of a comprehensive anti-discrimination bill which would provide definitions of direct and indirect discrimination, grounds, scope, affirmative action, exceptions, remedies, etc.

On 8 September 2011, ERT hosted a successful event aimed at encouraging equality lawyers in the UK to support ERT’s work and publicising the project’s approach and impact. Following the event, ERT has established the Equality Lawyers Network of lawyers interested in undertaking work in support of ERT projects. The Network currently has 22 barristers as members.

The project sought to produce four outputs: 1) a draft comprehensive anti-discrimination law (CADL) developed by key CSOs; 2) a joint lobbying strategy for the adoption of CADL; 3) enhanced capacity of CSOs to formulate and act on positions on equality issues; 4) increased awareness of the right to non-discrimination as a basic human right. While legislation reflecting the Legislative Map developed by ERT and its partners was not adopted during the project lifetime, the foundations for such a development have been laid. The establishment of the National Gender and Equality Commission provides a good basis from which to advocate for substantive legislation on equality, while the impact of the partner’s advocacy both upon civil society and on commissioners means they are well situated to be effective in this advocacy in the future. The Statement of Principles for Equality Law, Legislative Map and draft bill have been complemented by the ERT report on equality in Kenya, entitled In the Spirit of Harambee and published by ERT in February 2012 (see below). It re-affirmed the need for comprehensive equality legislation and catalysed further advocacy. Outside of the project itself, ERT’s work on this project has provided a platform for its long-term engagement on equality issues in Kenya, which is evidenced by the three additional projects underway there, and the positive relationships which ERT has with both its immediate partners and a wider community of interested parties. The project has also allowed ERT to develop its unique rights-based approach to development, which stresses the importance of effective legal protection from discrimination in ensuring effective, sustainable poverty alleviation.

Kenya 2: Embedding Equality under Kenya’s New Constitution

This project, undertaken in partnership with the Kenya Human Rights Commission (KHRC), commenced in September 2010 and came to an end at the end of October 2011. The project involved four activities, each aimed at strengthening the implementation of the right to non-discrimination under the 2010 Constitution of Kenya: (1) Publication
of a country report on equality in Kenya; (2) Delivery of four training workshops; (3) Lodging of six strategic litigation cases; and (4) A public awareness campaign.

The country report on equality in Kenya, which was researched and drafted throughout the project period, was published in February 2012 under the title *In the Spirit of Harambee: Addressing Discrimination and Inequality in Kenya*. The 320-page report, which is the result of ERT’s three year long partnership with KHRC, is the first ever comprehensive account of discrimination and inequalities on all grounds and in all areas of life in Kenya. The report brings together – for the first time – evidence of the lived experience of discrimination and inequality in Kenya on a wide range of different grounds, including ethnicity, sex, disability and sexual orientation, with an analysis of the adequacy of the laws, policies and institutions established to address these issues.

The report concludes that while Kenya has made great progress in recent years, discrimination exists across a range of grounds and areas of life, and major substantive inequalities remain. It recommends concrete steps related to stronger participation in international human rights instruments; repeal and amendment of discriminatory laws; action to effectively prohibit discrimination by state actors; and the adoption of measures to address substantive inequalities. Most importantly, the report argues that if Kenya is to give effect to the aspirations of its new Constitution, it must adopt comprehensive equality legislation providing protection from discrimination on all grounds and in all areas of life regulated by law.

On 4-7 October 2011, training was delivered by ERT to three groups: (i) commissioners from statutory and constitutional commissions; (ii) practicing lawyers; and (iii) government officials from across a number of departments. The training was successful with partners receiving positive feedback from all participating groups.

In addition, the project has identified six cases for strategic litigation. Of these, two cases concern the right to reasonable accommodation of persons with physical disabilities, an undeveloped concept in Kenyan law; two rely on the right to non-discrimination on grounds of pregnancy, a new ground established under the 2010 Constitution of Kenya; one concerns protection from discrimination on grounds of albinism, a ground which is not explicitly listed under the Constitution, but which it is argued falls within the scope of the open-ended list of grounds; and one concerns denial of access to education on grounds of socio-economic status. A dedicated fund has been established to support each case and make a contribution to lawyers’ and court fees. Three
UK equality lawyers from the Equality Lawyers Network have prepared detailed briefs for use by lawyers in two cases each and each one has agreed to maintain an on-going role, *pro bono*, in advising the lawyers as these cases proceed.

In mid-October 2011, ERT’s partner KHRC completed the activities required in respect of a “Know Your Rights” public awareness-raising campaign. Following analysis of key audiences, KHRC concluded that the campaign should target people between the ages of 18 and 30, as this group was both receptive to the campaign’s messages and under-informed about their Constitutional rights. On 24 October 2011, KHRC convened a public forum attended by over 700 law students from 12 Universities. KHRC also produced a range of promotional materials, including hats, bags, t-shirts, etc., which were distributed at the event and will be used in future campaigns.

An independent evaluation of the project concluded that, despite many of the project’s outcomes being necessarily long-term, immediate improvements could be identified as a result of the project activities. In the long term, it is expected that the country report will make a substantial contribution to the on-going debate about the need for comprehensive equality law in Kenya, that the strategic litigation cases will both raise awareness of the right to non-discrimination provided under the Constitution and strengthen its interpretation, and that the training workshops will lead to improved decision-making by those responsible for policy-making and implementation. Furthermore, the project has made a positive contribution to the overall aim of increasing support for the introduction of comprehensive equality law in Kenya.


In October 2010, ERT launched a third project in Kenya whose purpose was to utilise the unitary framework on equality in promoting LGBTI rights. It was completed in the autumn of 2011, together with two project partners, Gay and Lesbian Coalition of Kenya (GALCK) and Kenyan Human Rights Commission (KHRC).

The project co-funded ERT’s work on the comprehensive report on equality in Kenya published in February 2012 (see above). It also produced a practical guide for NGOs and lawyers on legal protection against discrimination of LGBT and other vulnerable groups in Kenya; and a feasibility study on the strategies of promoting equality inclusive of sexual orientation and gender identity. In August 2011, ERT conducted a week-long study tour in Kenya to develop the feasibility study under this project, as well as to gather further first-hand testimony for the report on equality in Kenya.

As the outputs of this project largely exceed the planned ones, so did the outcomes and impact. The report on equality in Kenya which was not envisaged as a separate output under this project but the production of which was made possible by the clustering and mutual amplification of activities undertaken by ERT and its partners under other projects in Kenya, will be useful not only to NGOs and lawyers but to a range of domestic actors, including but not limited to community leaders, statutory bodies, the judiciary, civil servants and legal scholars, as well as individuals who have been discriminated against. By identifying gaps, weaknesses and inconsistencies in existing legal protection and highlighting the impact of these deficiencies on vulnerable groups,
especially LGBTI groups, the report builds a case for legal and policy reform and provides these actors with the evidence they need. In addition, the report provides a strong foundation for other types of equality-related work, including development of training modules, policy positions, strategic litigation and international level advocacy. The added value of the report consists in framing a new debate on equality in Kenya and helping to constitute equality as a field of study and policy making, bringing together discourses of human rights, discrimination law and social justice.

Instead of the originally planned narrower feasibility study aimed primarily to test the idea of creating a hub of equality activism on Nairobi, the actual output is a more substantial needs-assessment study looking at strategies for strengthening LGBTI equality in Kenya and the region. The target audience of the study is primarily funders interested in promoting equality in Kenya, inclusive of sexual orientation and gender identity. The study made use of individual interviews and focus group discussions, according to a questionnaire in a one-hour version for individuals and a two-hour version for focus groups. Respondents enlisted with the help of partner NGOs included approximately 20 prominent individuals who are opinion-makers in Kenya and six focus groups of between ten and twenty persons each, representing different stakeholders (persons with disabilities, gays, lesbians, trans persons, persons living with HIV/AIDS, and sex workers).

The project’s overall impact includes creating preconditions for better protection from discrimination of the legal rights of LGBTI and other vulnerable groups. While this one year project is only a preparatory stage for further work, it has contributed and will through its outputs continue to contribute to: (1) stronger, more confident and better included constellations of LGBTI activists; (2) improved understanding among the LGBTI and other civil society groups of equality as a right and of the link between the different strands of equality and equality of sexuality; (3) increased accountability of the Kenyan government with a view to its obligation to promote equality and protect against discrimination, including on grounds of sexual orientation and gender identity; (4) better enforcement of existing equality law and policies, including in respect to LGBTI persons; (5) development of comprehensive national equality legislation and policies giving effect to the universal right to equality.

**Kenya 4: Improving Access to Justice for Victims of Gender Discrimination**

This project, which commenced on 1 April 2011, has as its purpose to enable Kenyan women to secure legal remedies and enhanced protection from discrimination by adding an equality component to free community based legal services. The project is implemented with a partner organisation, the Federation of Women Lawyers Kenya (FI-DA-Kenya) and its planned duration is four-and-a-half years. It focuses on building legal service capabilities of community-based organisations (CBOs) throughout Kenya.

In early July 2011, the Handbook for use by participating CBOs was completed. The Handbook provides information on Kenyan law as well as on how to set up, provide and administer community based legal services in discrimination matters under the project. On 18-22 July 2011, ERT provided training on equality and anti-discrimination law, and on establishing and providing community based legal services in discrimination matters to 10 CBOs and 10 lawyers. All participants in the training reported that
it was valuable. They are now using the skills developed to provide better advice to women who have suffered discrimination at the community level. This has involved raising awareness in the target communities of the rights and duties arising under the Constitution of Kenya, Employment Act and other legislation providing a right to non-discrimination and disseminating information on the legal services available through the CBOs. In addition, CBOs began providing advice on discrimination issues to women in their communities. In October and November 2011, FIDA undertook visits to five of the ten participating CBOs to provide advice, collect monitoring data and assess organisational development needs.

In August 2011, three ERT staff received training on monitoring and evaluation. Following this training, ERT prepared and submitted a monitoring and evaluation plan to the donor (Comic Relief). As part of this project, ERT’s project officer has also started work on an Open University course on “Capacities for Managing Development”. It is hoped that this learning will contribute to ERT’s on-going work in developing its own unique rights-based approach to development.

Through the delivery of legal advice and legal services to Kenyan women and girls who have been victims of discrimination the project aims to increase access to justice for all women, and, to increase the material enjoyment of particular rights, such as the rights to education and employment. This project has already had impact, as evidenced by initial reports submitted by FIDA and participating CBOs which indicate that the training, guidance and materials provided under the project have been used to raise awareness and sensitise communities to their rights and duties under the Constitution of Kenya, Employment Act

and other legislation providing a right to non-discrimination.

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

Launched in March 2010, this project had the general objective of strengthening the role of Malaysian civil society in implementing equality and anti-discrimination provisions enshrined in the Federal Constitution, in line with international law. ERT had overall responsibility for the implementation of the project and worked with a Malaysian partner, the Kuala Lumpur-based NGO Tenaganita.

An advanced draft of the report on equality and non-discrimination law in Malaysia was finalised in the second half of 2011. ERT carried out desk research to identify patterns of inequality, analysing statistics provided by UN bodies and state agencies, NGO reports, academic articles and press reports. This research was supplemented by field research and testimony. Research was also carried out into the Malaysian legal system and relevant law was analysed against the requirements of international law. Malaysian legal experts were recruited during August 2011 to review a draft of the report and their feedback was incorporated prior to circulation of the resulting draft to members of the Equality Forum established under the project, for discussion at their sixth meeting in August 2011. A preview of the report was then published based on the comments received during consultation with the Equality Forum.

On 30 November 2011, a stakeholder roundtable meeting took place in Kuala Lumpur to discuss the preview of the country report on equality and non-discrimination in Malaysia and particularly its recommendations.
Participants included key stakeholders from government ministries, parliament, the judiciary and civil society. The meeting was well-attended and interesting discussions took place, particularly in relation to (i) the relationship between religion and equality; (ii) attitudes towards LGBTIQ rights in Malaysia; and (iii) the advantages and disadvantages of a unified approach to equality. It is hoped that with the publication of the final report on inequality and discrimination in Malaysia in 2012, further action will be taken by members of the Equality Forum in order to implement its recommendations.

Under the project, ERT and Tenaganita have provided research support in relation to two equality cases – the first of which is a judicial review of the Shari’ah law prohibition of cross-dressing, and the second – a constitutional challenge against the dismissal of a temporary teacher on the ground of her pregnancy. Leave was granted in the transgender judicial review case on 4 November 2011, and the full hearing is expected to take place in April 2012. ERT is providing a legal research brief to the representatives of the applicants setting out international and comparative law in support of the case.

The outcomes and impacts of this project include (i) the establishment of a Malaysian Equality Forum which provides an institutional framework for civil society dialogue on equality and discrimination issues in Malaysia; and (ii) the increased understanding of 35 workshop participants of both international and domestic equality and non-discrimination law, and an increased capacity to develop advocacy strategies through which their improved knowledge can be used to seek improvements in domestic protections of the rights to equality and non-discrimination for all vulnerable groups within Malaysian society.

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

This project, in which ERT is a partner to a Moldovan NGO – Promo-Lex – has two general objectives: (1) to contribute to strengthening the legal protection from discriminatory ill-treatment; and (2) to raise awareness of stakeholders on discriminatory ill-treatment. ERT has been responsible for certain aspects of the project related to building the capacity of local stakeholders on equality law issues.

One aspect of this project involves Promo-Lex and ERT working together in support of selected strategic litigation cases. Two of the project’s cases relating to domestic violence have been taken to the European Court of Human Rights and were communicated during March 2011: Eremia & Others v Moldova (Application No. 3564/11) and Mudric v Moldova (Application No. 74839/10). In June 2011, ERT submitted requests for permission to intervene in both cases. In September 2011, permission was granted. ERT instructed two barristers to draft submissions in these cases focussing the implications of Article 14 for the state’s positive obligations under Article 3 of the European Convention on Human Rights, when dealing with domestic violence. The amicus briefs were submitted to the Court in late October 2011.

In October 2011, ERT made further submissions to the Ministry of Justice of Moldova regarding the Draft Law on Preventing and Combating Discrimination which will be considered by the government during 2012. While the submission praised the Ministry of Justice for accepting several of ERT’s previous comments, submitted in March 2011, it also noted remaining deficiencies in the
draft, including: (i) the lack of protection from discrimination by perception and multiple discrimination; (ii) the failure to include certain grounds as protected (e.g. descent, pregnancy, maternity, family or carer status, birth, national origin, association with a national minority, gender identity and genetic or other predisposition toward illness); (iii) the exclusion of “relationships of marriage and adoption regulated by the legislation in force” and “religious denominations and their component parts in aspects concerning their religious beliefs” from the prohibition of discrimination; (iv) the legal uncertainty caused by the inadequate drafting in relation to “Grave Forms of Discrimination”; and (v) the absence of a provision which sets out an obligation to provide reasonable accommodation. ERT is awaiting publication of the final version of the law in order to assess the extent to which its comments have been incorporated.

A bilingual (Romanian-English) report on discriminatory ill-treatment in Moldova, to which ERT has contributed, was published by Promo-Lex in early 2012. The report analyses the main patterns of discriminatory ill-treatment prevailing in Moldova and the relevant law, and illustrates the main issues with testimony of specific cases.

The impact of this project is that through the training workshop delivered by ERT in August 2010 and the series of four public lectures in Chisinau which ERT has participated in, over 70 legal practitioners, judges and civil society representatives have been introduced to the unitary framework on equality and its relationship to discriminatory ill-treatment in Moldova. It is anticipated that further impact and outcomes will be seen through: (1) the judgments issued by the European Court of Human Rights in the cases of Eremia v Moldova and Mudric v Moldova; (2) the use of the report on discriminatory ill-treatment by civil society activists and legal practitioners to strengthen equality law arguments when representing victims of discriminatory ill-treatment; and (3) improved drafting and content in the future Law on Preventing and Combating Discrimination.

**Solomon Islands: Empowering Disadvantaged Groups through Human Rights and Equality Training**

ERT is a partner to this project whose main implementer is the Honiara office of the Secretariat of the Pacific Community. The specific objective of the project is to build the capacity of Solomon Islands civil society organisations to provide basic and wide-reaching training on human rights and equality with a view to building and strengthening the national human rights regime.

Following the two-week training provided by ERT to Solomon Islands organisations in March 2011, the participants in the training programme have continued to carry out field work in their respective regions of the Solomon Islands and gathered information for future use in human rights advocacy, reporting and litigation. This project concluded in September 2011 and will be followed by a new project, due to commence in 2012, which will build on the work under the first project through advocacy and the publication of a country report.

The outcomes of the project are: (i) ten civil society members trained as provincial focal points, empowered to document discrimination; (ii) recording of human rights violations has been done in 10 provinces and Honiara; (iii) human rights violations documented by the project have been transcribed and will form the basis of national level discussions and possible submissions.
to Law Reform Commission, Constitutional Reform Commission and Ministry of Women, Youth, Children and Family Affairs; 24 individual interviews of victims have been carried out, documenting cases of abuse in the following areas: sexual violence, physical violence, emotional violence, abuse of adopted child, and negligence resulting in violation of the rights of the child (access to health care and education).

The project impact includes: (1) an increase in awareness of basic rights among the most vulnerable groups in 10 Provinces; this is reflected in reports by the focal points where people who receive information on human rights are saying that they are grateful that they are aware of their rights; women especially are starting to ask for participation in decision making in their communities through the feedback they gave to focal points; (2) moving communities with human rights violations from acceptance to action, by linking them to active civil society groups where present, and by encouraging the growth and strengthening of existing civil society such as church leaders, village leaders and church women, men and youth groups to be aware of human rights and to speak out against violations in their own villages, by gaining support of village leaders; and (3) increased capacity of CSOs to tackle gender-based discrimination.

**Sudan 1: Empowering Civil Society in Sudan to Combat Discrimination**

This project, which started on 4 October 2010, is aimed at developing civil society capacity through training, elaboration of a country report on discrimination, and establishment of a civil society coalition to undertake advocacy. It is being implemented by ERT in partnership with the Sudanese Organisation for Research and Development (SORD). The project is being implemented in the context of a rapidly-changing and difficult political and security environment, which is affecting the ability of SORD to operate freely, and has necessitated a number of changes to the delivery of project activities.

Work on a report on discrimination and inequality in Sudan is underway. In July 2011, field research for the report began in five provinces of Sudan. In October 2011, ERT convened and delivered an intensive train-the-trainer workshop for a small group of senior Sudanese human rights activists. The training provided an introduction to the basic concepts of equality law, discussion of...
these concepts and their application, and discussion of training techniques in order that participants could provide training to other members of the target group inside Sudan. The training was well-received and positively evaluated by the participants. A select number of the participants then delivered training in two further workshops, in Khartoum and Kassala, for 25-30 persons each, in January-February 2012.

The key impact and outcome of this project achieved so far is that the training was well-received and positively evaluated by those participating in it. The training had an important multiplier effect, with each participant effectively capacitated to deliver training to other civil society actors.

Sudan 2: Equality and Freedom of Opinion, Expression and Association

ERT launched this project in October 2010, with the objective of enhancing the ability of Sudanese human rights defenders and journalists to use equality and human rights law concepts in their work, and to be aware about the need to balance freedom of expression with the right to non-discrimination, including in the form of freedom from hate speech. ERT works with anonymous Sudanese consultants operating from outside and inside Sudan. With support from the project, journalists are continuing to write for Sudanese and international media on human rights issues. The journalists have launched campaigns and published statements on a number of topics, including one condemning the closure of a Sudanese Newspaper *Aljareeda* by the security organs in late September 2011.

In early 2012, ERT and its local partners convened two two-day training workshops for 25 Sudanese journalists and human rights defenders. The first workshop examined the role of journalists in reporting on human rights abuses, with a particular reference to the rights to freedom of expression and non-discrimination. In addition, the workshop examined the responsibilities of journalists to respect the right to non-discrimination in their work, including through balanced reporting and refraining from harmful speech. The second workshop focussed on journalistic ethics and techniques and included modules on reporting from conflict zones, ethics in journalism and the use of digital and social media in human rights journalism and advocacy.

Between July 2011 and February 2012, ERT and its local partners undertook a number of other activities to support the journalists and their network, including support to individual journalists, publicising the closure
of newspapers and detention of journalists, and work to establish a website.

This project has had a significant impact in two important areas: (1) Through providing practical and technical support to journalists involved in covering human rights issues, ERT has made a contribution to sustaining independent journalism in Sudan; (2) Through providing training on reporting from a rights-based perspective, with a particular focus on the right to non-discrimination and harmful speech, ERT has had an important impact on the Sudanese media, helping to ensure more balanced, effective and informed human rights reporting in future.

Guyana 1: Empowering Civil Society to Challenge Homophobic Laws and Discrimination against LGBTI Persons

This project started in October 2010. Its objective is to build 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. ERT’s project partner is the Society against Sexual Orientation Discrimination (SASOD) based in Georgetown.

Recent work has focussed on the preparation of a report on discrimination in Guyana. In August, ERT and SASOD undertook field research and collected testimony from victims of discrimination on different grounds in different regions of the country. Since November 2011, ERT and SASOD have also carried out further desk-based research on patterns of discrimination and inequality and completed a thorough review of the legal and policy framework on equality in Guyana.

Two training workshops on human rights, equality and the protection of LGBTI per-
sons were delivered by ERT in August 2011. The workshops built on a training provided previously (in May 2011) by ERT and focussed on ensuring that participants had a strong understanding of the key concepts of equality law, the relevant provisions in the Guyanese Constitution and legislation, and techniques for documenting and publicising incidents of discrimination.

The Guyana Equality Forum established by ERT’s partner SASOD in the first half of 2011 continued to develop and agreed its mandate and principles of operation. In the project period, two further meetings of the Forum were held. The partners intend to maintain and further develop the Forum in the context of their second project together (see below).

**Guyana 2: Empowering Civil Society to Address Societal Prejudice and Undertake Advocacy on Discrimination against LGBT Persons**

This second project on Guyana started on 18 October 2011, overlapping with the last phase of the first Guyana project (see above). It is implemented again in partnership with SASOD. The two projects are closely interconnected: the second, focusing on media, political and international advocacy, builds on the first, which focussed on the development of basic capacities and tools for advocacy.

This project’s objective is to further develop the capacity of the organisations which together form the Guyana Equality Forum, supporting them to undertake advocacy and awareness-raising in pursuit of legal and policy reforms on equality, with a particular focus on tackling discrimination against LGBTI persons. The project aims to enable these organisations to address two obstacles to successful advocacy on these issues: (1) Societal prejudice and stigma against LGBTI persons; and (2) Lack of commitment to reform from government and political leaders. The project will do this through supporting the participating organisations to develop and implement an integrated advocacy and awareness-raising campaign operating at the community, national and international levels.

Since the start of the project, ERT and SASOD, in a challenging post-electoral context defined by political struggle around and after the November 2011 election, have made efforts to maintain focus on the need for decriminalisation of same-sex conduct between men and of cross-dressing, and for legal protection from discrimination on grounds of sexual orientation and gender identity. Commitments made by the Guyanese authorities to consult on these issues have been made, following criticism at the Universal Periodic Review of Guyana in 2010. SASOD and ERT have been asked to provide evidence to the Office of the President on discrimination against LGBTI persons and the need for legislative reform.

**Discrimination and Torture in Nigeria and Thailand**

This project, which started in the autumn of 2010, has as its objective to provide practical and legal assistance to victims of discriminatory torture in Nigeria and Thailand. Since the start of the project, ERT and its partner in Nigeria, the Legal Defence and Assistance Project (LEDAP), have delivered direct legal assistance to 29 victims of torture arising from discrimination. Where necessary, LEDAP has arranged for the provision of medical, psychological and social support to those victims receiving legal support.
Under this project, ERT has supported several cases in Thailand, through a partnership with the Thai Committee for Refugees Foundation, which exists to promote and protect the human rights of refugees, asylum seekers and stateless persons in Thailand and in the ASEAN region. The project has provided five individuals who have been held in immigration detention amounting to cruel, inhuman, or degrading treatment or punishment with legal assistance.

Through providing support to 29 individual torture victims and enabling them to pursue legal claims for torture against the Nigerian authorities, and providing similar support for 5 victims in Thailand, this project has secured redress for the individual victims, and will contributed to efforts to reduce impunity for torture in the target countries, and strengthen the capacity of the project partners in this regard.

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

The overall objective of this project, which started on 1 November 2010, is to empower civil society in Indonesia to use non-discrimination law in combating religious discrimination and promoting religious freedom. ERT works with two Indonesian partners – Indonesian Legal Aid Foundation (YLBHI) and Institute for Policy Research and Advocacy (ELSAM).

Recent work has focussed on the production of a report on discrimination in Indonesia. Field research started in August 2011 and has been supervised by ERT’s partner YLBHI. The second project partner, ELSAM has been responsible for undertaking further desk research and preparing a first draft of the report. It also liaised with YLBHI to ensure that field research was properly directed.

As a result of the project activities, Indonesian NGOs that participated in a training workshop delivered by ERT and its partners in June 2011 have an increased capacity to identify and document cases of discrimination. The work undertaken by these organisations is improving the documentation of religious discrimination in Indonesia.

Belarus: Empowering Civil Society in Belarus to Combat Discrimination and Promote Equality

This project started in December 2010. Its objectives are to improve knowledge of discrimination law among NGOs in Belarus, to enable them to monitor and report on discrimination and to bring discrimination cases to courts and to create a coalition of NGOs with a joint advocacy platform on issues of discrimination. ERT works with an informal partner based in Minsk – the Belarus Helsinki Committee (BHC).

Following training of Belarusian human rights CSOs provided by ERT in June 2011 on basic concepts and overarching principles of equality law and their application in the Belarusian context, ERT and its partner, the BHC, have engaged in monitoring discrimination on the grounds of gender, sexual orientation, disability, ethnicity, political opinion, and religion in different regions of Belarus. Research findings are being used by the partners to provide evidence for a planned comprehensive report on discrimination in Belarus. The report will be launched at a roundtable event in
Minsk, and widely disseminated both within the country and internationally to form the basis of an advocacy campaign aimed at advocating for the adoption of comprehensive anti-discrimination legalisation in line with international norms.

The partners are simultaneously identifying potential litigation cases which can be supported under the project. It is envisaged that these cases can be brought under the Belarusian Constitution, with ERT providing international expertise and a limited financial contribution towards the legal teams’ costs.

**Jordan: Addressing Discrimination and Violence against Women in Jordan**

The objective of this project, which started in January 2011, is to contribute to the protection of women from all forms of discrimination in Jordan at the societal and legal level. ERT is implementing this project in Jordan as a partner to Mizan, an Amman-based organisation which is one of the most prominent and active human rights and legal defence NGOs in the Middle East.

In September 2011, ERT delivered a lecture on the essential elements of national equality legislation to an audience consisting of key Jordanian law-makers, government ministers, judges and prosecutors as well as NGO representatives, generating and propelling a growing interest in developing equality legislation in Jordan. The discussion which followed focussed on the prospects of incorporating lessons from other jurisdiction in Jordan through law reform in the area of equality, and on issues of gender discrimination related to obtaining citizenship, whose high sensitivity is due to the way in which a reform would affect the very substantial Palestinian population in Jordan.

ERT also met with partners and consultants in Amman to review progress on a study on gender equality in Jordan. Also, legal issues and cases in which ERT input is requested have been identified. These include issues of “protective detention” of women to rescue them from threatened or real domestic violence, a measure which is itself an abuse of women; passing on of nationality from mothers to their children; and domestic violence, among others.

In January 2012, ERT submitted a parallel report to the United Nations Committee on the Elimination of Discrimination Against Women in which it set out concerns regarding Jordan’s implementation of Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women, according to which Jordan is obligated to protect the right of women to non-discrimination. It particularly noted the failure of the Constitution of Jordan to include “gender” as a prohibited ground of discrimination.

The intended impact of the project is to enhance the capacity of Jordanian non-state actors to advocate for a national gender equality regime to better protect women’s rights, including the adoption or modification of domestic laws in line with international standards and their effective implementation.

**Croatia: Empowering Civil Society through Training and Establishing a Croatian Equality Forum**

Work on this project began in May 2011. The project envisages the provision of training on equality and non-discrimination law, production of a toolkit on equality and non-discrimination law for Croatian CSOs and legal professionals, and the establishment of a Croatian Equality Forum bringing together
a minimum of 30 civil society organisations working on issues related to equality and non-discrimination law.

ERT visited Croatia in August to undertake planning discussions with the project partners, the Croatian Law Center (CLC) and the Association for Protection of Human Rights and Citizens’ Freedoms (HOMO). The partners have produced a baseline study, which provides an analysis of Croatia’s legal protections against discrimination, discriminatory laws, and civil society capacity.

A first training workshop under this project took place in Pula on 2-4 March 2012. Trainers from ERT, the Equality and Diversity Forum (EDF, UK), the Croatian Law Center, the Croatian Ombudsman and the Croatian Supreme Court presented interactive workshops covering topics including Croatian and European equality law and practice; the role of jurisprudence in fighting discrimination; substantive, procedural and criminal law perspectives on non-discrimination; coalition building and joint advocacy; advocacy and awareness-raising campaigns and strategic litigation. Participants came from across Croatia and included human rights activists, civil society representatives and practising lawyers.

Azerbaijan: Developing Civil Society Capacity for Preventing Discriminatory Torture and Ill-treatment

This project began on 29 November 2011. Over the course of 18 months, this project will seek to (1) increase the capacity of civil society organisations (CSOs) and other professionals to understand and apply anti-discrimination and human rights law in challenging discriminatory torture and ill-treatment; (2) create an institutional frame-work for civil society dialogue and advocacy on issues relating to discriminatory torture and ill-treatment through establishing a CSO Forum; and (3) increase awareness and understanding among CSOs and other key stakeholders of the link between discrimination and the occurrence of torture and ill-treatment in Azerbaijan. The project will consist of training workshops in three cities in Azerbaijan (Baku, Ganja and Kurdemir), the publication of a report on discriminatory torture and ill-treatment in Azerbaijan, the establishment of a CSO Forum, and an advocacy campaign.

ERT visited Azerbaijan in December to undertake planning discussions with the project partner, Women’s Organization Tomris, which is based in Ganja. In addition, meetings were held with a group of CSOs and individuals for a scoping discussion on discriminatory practices in the Azerbaijani context. ERT and Tomris are currently working on a baseline study which will guide the planning of the project activities and contacting local CSOs who will form the core of the CSO Forum.

Bosnia and Herzegovina: Developing Civil Society Capacity to Combat Discrimination and Inequality in Bosnia and Herzegovina

This 18 month project began on 14 December 2011. ERT visited Bosnia and Herzegovina in January 2012 to work with the local partner organisations, Helsinki Committee for Human Rights in Bosnia and Herzegovina (HCRC) based in Sarajevo, and Center for Informative and Legal Aid (CIPP) based in Zvornik.

This project will seek to (1) increase the capacity of Bosnian human rights defenders to identify and challenge cases of dis-
cramination and inequality; (2) increase the availability of information and evidence on discrimination and inequality and increase understanding of the relevant issues; (3) increase cooperation between Bosnian CSOs in challenging discrimination and inequality; and (4) raise the awareness of civil society and other key stakeholders of the widespread existence of discrimination and inequality in Bosnia and Herzegovina and the duty of Bosnia and Herzegovina to investigate and bring an end to such practices; leading to (5) the better implementation of anti-discrimination legislation. The project will consist of training workshops on anti-discrimination law and policy and anti-discrimination litigation in the two entities of Bosnia and Herzegovina, the establishment of a forum of organisations to combat discrimination, the publication of a comprehensive report on discrimination in Bosnia and Herzegovina, direct legal assistance to victims of discrimination through legal advice, strategic litigation and an advocacy campaign. ERT, HCHR and CIPP are currently working on a baseline study which will guide the planning of the project activities and contacting local CSOs who will form the core of the CSO Forum.

**Turkey: Empowering Civil Society to Challenge Discrimination against LGBTI Persons in the Aegean and Marmara Regions of Turkey**

This 18-month project began on 1 January 2012. The project seeks to address the lack of capacity among local level CSOs in two of Turkey’s regions to challenge discrimination against LGBTI persons and advocate for improved implementation of legal protection from discrimination, including on grounds...
of sexual orientation and gender identity, through (1) improving documentation of all types of discrimination, including against LGBTI persons from a unified perspective on equality in the form of a published report; (2) increasing knowledge of anti-discrimination law and concepts among CSOs; (3) increasing experience of documenting cases of discrimination among CSOs in the target regions; and (4) increasing cooperation between CSOs in the target regions through the creation of a Regional Equality Forum.

ERT visited Turkey in February 2012 to undertake planning discussions with the project partner, Siyah Pembe Üçgen (SPU), which is based in Izmir. ERT and SPU are currently working on a baseline study which will guide the planning of the project activities. The latter will include training seminars on discrimination law and policy in regional centres, the establishment of a Regional Equality Forum and the publication of a report on discrimination in the Aegean and Marmara regions of Turkey.