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Executive Director

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Activity Report (May 2010 – May 2011)

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This report provides an overview of the most important work undertaken by The Equal Rights Trust (ERT) since May 2010. It is prepared as part of the papers submitted by the Executive Director to the ERT Board of Trustees at their meeting on 20 May 2011 for reference, review and discussion. It has been slightly updated to include some of the work carried out also in June 2011.

I. ERT Purpose and Strategy

During the reporting period, ERT has made further progress in its mission: combating discrimination and promoting equality as a fundamental human rights and a basic principle of social justice. In all its actions aimed at realising its goals ERT has been drawing on its unique capabilities which complement

the efforts of other actors. ERT's special place in the international human rights movement is defined by its strategy of promoting equality in a unitary human rights framework¹ expressed in the Declaration of Principles on Equality², which also allows a focus on the complex relationship between different forms of discrimination and disadvantage.

ERT pursues its purpose through advocacy, research, litigation, capacity building, awareness-raising, creating coalitions for change and developing educational and informational resources on equality. The work of ERT is organised as a mosaic of distinct though interrelated projects that fall under four types:

- Core advocacy;
- Thematic projects;
- Country projects;
- Developing resources on equality.

In this report, the description of activities is organised according to project types. The notional open-ended project "Core advocacy" consists of international level interventions, as well as actions to promote equality at the national level through a variety of forms, including statements, legal briefs, technical assistance, conference presentations, lectures, meetings, etc. "Core advocacy" also includes all activities that do not fall under currently on-going thematic or country projects, or developing resources.

Thematic projects focus on a certain aspect of equality and are either global or multi-country in scope. In May 2011, ERT had completed one and worked on five thematic projects.

Country projects consist of a set of activities aimed at strengthening the right to equality in individual countries and are usually conducted together with partner organisations. In May 2011, ERT had 16 country projects.

Development of resources includes the maintenance and updating of a Virtual Library on Equality, the operating of an email news service and the publication of a biannual journal.

Reflecting the fact that the countries in the world differ greatly in the degree of implementing the principles of equality, ERT relies on country-specific strategies. The strategic approach for each country takes into account:

¹ The unitary (unified, integrated) human rights framework on equality is a holistic approach which, while keeping in view the specificities of the different strands of equality and the different types of discrimination, seeks more effective implementation of the right to equality through accounting for the overarching aspects of these different strands and types. The unitary framework brings together: a) the types of inequalities based on different grounds, such as gender, race, religion, nationality, disability, sexual orientation and gender identity, among others; b) the types of inequalities in different areas of life, such as the administration of justice, employment, education, provision of goods and services, etc.

² The Declaration of Principles on Equality was adopted in 2008, as a collaborative effort of 128 international experts. The process was driven by ERT. See *Declaration of Principles on Equality*, published by The Equal Rights Trust, London 2008, available at <http://www.equalrightstrust.org/ertdocumentbank/Pages%20from%20Declaration%20perfect%20principle.pdf>.

- The general political, social, economic and cultural situation in the country;
- The main patterns of discrimination and the most important inequalities in the country;
- The existing law related to equality, including international legal obligations, constitutional guarantees, and national and sub-national equality legislation;
- The implementation of existing legislation;
- The policies and practices related to equality;
- The state of the struggle for equality.

To define a country strategy, ERT identifies the stakeholders and the ways in which they have articulated their needs; and the key power players and their relative weight in making decisions on equality issues. Impact is sought on the identified key players. While States (and within them, specific State bodies) are key players and therefore targets for impact, ERT also seeks to influence other key players and stakeholders, including international governmental organisations, the judiciary, civil society organisations, the corporate sector, the education sector, the media, and the general public.

ERT's approach is to develop its activities within projects in a way allowing synergies between them to increase the overall impact. In the report period, ERT has made an important step towards clustering of its projects to maximise the learning and transfer of lessons. This is achieved through seeking to start new projects with thematic or geographic continuity with existing ones. In Kenya, for example, ERT has started three new projects in the report period on the sound basis of an underlying first project. ERT also seeks a balance between continuity and innovation in its choice of partners.

II. Achievement Highlights in the Period May 2010-May 2011

A. General Outcomes of ERT Work in the Report Period

In the report period, ERT has achieved the following most important general outcomes, details of which are presented in the subsequent sections:

1. Basing its positions and actions on a universal Declaration of Principles on Equality, ERT has influenced the way in which the right to equality is understood and approached at many levels, including governments, legislators, policy makers, members of the judiciary, legal professionals and civil society, thus strengthening and broadening the current expert consensus on equality principles.
2. ERT has influenced legislative and policy developments related to equality in over twenty-five countries, through advocacy submissions on existing or emerging legislation and briefs on legal and policy issues and court cases.
3. ERT has influenced the approach of human rights and humanitarian actors to the issue of statelessness, through publication of a major study on the detention, discrimination and protection needs of stateless persons, and followed it up with successful advocacy actions.
4. ERT has achieved a set of positive results, notably in building the capacity of civil society, the judiciary and others, in the context of its country-specific projects in India, Kenya, Malaysia, Moldova, Nigeria and the Solomon Islands and is well on its way to achieving similar impact in other project countries.

5. The biannual journal, *The Equal Rights Review*, which as of its sixth issue (March 2011) became a peer-reviewed, has established itself as an increasingly authoritative and sought out publication with a significant international audience, and has contributed to an emerging new integrated field of research, policy and activism whose founding principles are spelled out in the Declaration of Principles on Equality.

6. ERT has reached a new stage of its institutional development at which its capability to influence positive change in the area of equality has grown significantly in comparison to previous years.

B. General Impact of ERT Work in the Report Period

In the report period, ERT has achieved significant impact in the direction of:

(1) Better accountability of States and non-State actors with a view to their obligation to promote equality and protect against discrimination.

(2) Development and improvement of comprehensive national equality legislation and policies giving effect to the universal right to equality in individual countries.

(3) Better enforcement of existing equality law and policies.

(4) Empowering civil society, in particular NGOs representing victims of discrimination, in promoting equality.

(5) Development of the substantive and procedural aspects of the universal human right to equality and non-discrimination.

(6) Better public understanding of equality as a right and as a value on which broader consensus is needed in present-day societies.

III. Activities

A. Core Advocacy

ERT is an international advocacy organisation, as well as a resource centre and a think tank. Advocacy is the main strategy through which ERT pursues its goals. In a broad sense, all ERT work as a whole can be described as advocacy, directly or indirectly promoting the right to equality. In a narrow sense, direct advocacy is a specific strategy for pursuing ERT's mission, along with policy research, documentation, expert legal assistance to other actors, assistance in litigation, capacity building, etc. This section presents ERT's advocacy in the narrow sense. It covers only those advocacy activities which – albeit related to or generated from current projects -- fall outside these projects' specific action plans.

ERT's **advocacy objective** is to improve the protection and promotion of equal rights, through better legislation, implementation, policy and practices related to equality, using the Declaration of Principles on Equality to orient advocacy efforts. In the report period, ERT has promoted the Principles at numerous meetings, seminars and conferences in different countries, sent written communications to a number of human rights and equality organisations, and presented the

Declaration itself in keynote lectures and addresses. The Principles are fairly well known among members of UN treaty bodies and other mandate holders, thanks to the Office of the UN High Commissioner on Human Rights (OHCHR) which has distributed the Declaration among them. The OHCHR has also provided the opportunity for ERT to familiarise the UN expert community with the Principles, through inviting ERT as an expert at several meetings it has organised on various human rights issues.

A1. International Level

In early April 2010, an introductory Memorandum on the Declaration of Principles on Equality was presented to the **Parliamentary Assembly of the Council of Europe** (PACE) by PACE Member Mr Cilevics, through the PACE Legal Affairs and Human Rights Committee. The Committee subsequently considered a motion to organise a hearing on the Declaration and on the legislation, policies and practices related to equality in the 47 member states of the Council of Europe, assessing these in the light of the Declaration. ERT was invited to present its views at the hearing. On 8 March, the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe held the hearing entitled **“The Declaration of Principles on Equality and the Activities of the Council of Europe”**. ERT Executive Director Dimitrina Petrova presented the Declaration of Principles on Equality to the Committee, comparing it to existing legal approaches to equality in the Council of Europe and the European Union frameworks, as well as explaining how the Principles could be of use in strengthening the rights to equality and non-discrimination in the member states. The presentation was followed by a discussion. The hearing was held as a part of the preparation for a report on possible Council of Europe action to promote the Declaration of Principles on Equality in member states. On 6 June 2011, the Committee, at its meeting in Oslo, voted to adopt the report on the Declaration of Principles on Equality, which recommends that it is recognised as the basis of improving equality legislation and policies in the Council of Europe member states. The report will be further considered at the plenary of the Parliamentary Assembly of the Council of Europe.

On 18-20 May 2010, ERT participated in a **“Global Meeting of LGBT Leaders”**, organised by Arcus Foundation in Berlin, and provided strategic advice on the programming of donors’ efforts to advance LGBT rights. ERT has convinced donors and other stakeholders to make use of the unitary perspective on equality in order to end the marginalisation of LGBT issues and groups within the human rights movement. A project managed by ERT in Kenya to promote LGBT rights in a unified equality framework (see project description below) was presented as the model to be followed by others.

On 8-9 July 2010, ERT participated in expert workshop **“Effective and Independent Structures for Promoting Equality”**, organised by the **Council of Europe** Commissioner for Human Rights, in Strasbourg. In September 2010, ERT made a presentation on the policy role of equality bodies to a group of European experts in Leeds, at a conference on **“Achieving Equality: Critical Reflections on the Role of Equality Bodies”** organised by the **University of Leeds**. The ERT presentation was entitled “Influencing Policy and Governmental Opinion: the Role of Equality Bodies”.

Also in September 2010, ERT and the European Network against Racism (ENAR) issued an educational material containing the text of **Professor Sir Bob Hepple’s article** on the Equality Act in Britain published in *The Equal Rights Review* in July (No 5). The document has been circulated to a large number of **European Union** stake holders and is also available on the ENAR website.

On 29 September 2010, ERT co-hosted, together with the International Commission of Jurists (ICJ) in Geneva a **side event to the 15th Session of the UN Human Rights Council**. The event, entitled **“Statelessness, Discrimination and Human Rights”**, was informed by the findings of ERT’s report

on statelessness, *Unravelling Anomaly*. A short film – *No Place To Go* – produced by ERT was screened at the event. Speakers included Volker Türk, Director of International Protection at the UNHCR; Jan Borgen, Deputy Secretary General of the ICJ; and Tamás Molnár, Legal Advisor at the Ministry of the Interior of Hungary, who played a key role in developing that country’s statelessness determination procedure. Amal de Chickera, Head of Statelessness and Nationality Projects at ERT, spoke of the four fundamental challenges – legal, political, institutional and equality-related – which face the human rights community in addressing the statelessness problem.

On 8 October 2010, Dimitrina Petrova delivered the introductory overview speech³ at the session ***Intolerance against Migrants*** at the **Organisation of Security and Cooperation in Europe (OSCE)** Review Conference in Warsaw. The full text of the speech (16 pages) has been circulated broadly among the 56 governments and over 400 non-governmental and other organisations present at the Review Conference.⁴ ERT also submitted two written statements to the Review Conference: on *Tolerance and Non-discrimination* appealing to states to adopt comprehensive equality legislation and setting out the essential elements of such legislation; and on *Problems Pertaining to Statelessness in the OSCE Area*.

On 13 October 2010, ERT was featured in a documentary film produced by the Nuance Pictures (Canada) on the persistence of racism and discrimination, and the exclusion of Roma. ERT received the filming crew in its office and provided comments on various aspects of racial discrimination.

In early November 2010, ERT submitted a shadow report to the UN **Universal Periodic Review for Sierra Leone**. In the submission, ERT highlighted some of the most significant challenges and problems facing the government of Sierra Leone in fulfilling its obligations to promote equality and combat discrimination. The submission recommended that the government (i) undertake a comprehensive review of domestic legislation to identify discriminatory laws and take immediate steps to amend or repeal such laws to ensure compliance with its international obligations; and (ii) take steps to develop and adopt comprehensive anti-discrimination legislation and policies providing protection from discrimination on all relevant grounds, in all areas of life governed by law and making provision for the establishment of a national institution to ensure effective implementation and enforcement of the law.

In the same month, ERT provided a detailed memorandum to the **Council of Europe’s European Commission against Racism and Intolerance (ECRI)** containing feedback and recommendations on a draft General Recommendation on anti-Gypsism, and the subsequent ECRI document reflected the ERT approach and positions.

On 19 November 2010, an ERT representative participated as Discussant in Workshop **“Minority and Indigenous Rights”**, organised by Institute of Commonwealth Studies and Brunel Law School in London. ERT commented on the changing relationship between the minority rights and equality

³ Introductory speeches at Review Conferences are intended to frame the issue and provide the basis of the subsequent statements by states and other stake holders. States engage in defending their positions against claims made in the introductory speech, or raising issues against other states; and NGOs and other entities also make statements laying out their own concerns.

⁴ It is also available at:
<http://www.equalrightstrust.org/ertdocumentbank/Intolerance%20against%20Migrants%20Warsaw%20Oct%202010.pdf>

paradigms, stressing that the latter should no longer be perceived as opposed to specific minority rights as it is being transformed from a formal to a substantive equality approach.

In December 2010, ERT participated in the global celebration of **International Human Rights Day**, which focussed on human rights defenders who act to end discrimination, by highlighting the work of three remarkable individuals with whom it works. The statement featured the work of Asha el Karib, Executive Director of the Sudanese Organisation for Research and Development (SORD); David Kuria, the then Chairman of the Gay and Lesbian Coalition of Kenya (GALCK); and Wan Yan Hai, the founder and former director of the Beijing Aizhixing Institute (Aizhixing), currently in exile.

On 16-17 December 2010, ERT served as Expert in a validation meeting, in Geneva, of **UN OHCHR** evaluating a proposed **“Technical Guidebook for the development of national action plans against racial discrimination”**, organised by the UN OHCHR. ERT’s contributions were based on the unitary perspective on equality and on modern equality principles as reflected in the Declaration of Principles on Equality.

In January 2011, ERT submitted shadow reports to the **Committee on the Elimination of Discrimination Against Women on Kenya and Belarus**. The submission on Kenya examined the adequacy and effectiveness of Kenya’s legislation and policy in addressing discrimination against women in the country, and urged the adoption of comprehensive anti-discrimination law, in line with the Statement of Principles developed by ERT and its partners in Kenya. The submission on Belarus discussed the absence of any equality or anti-discrimination legislation in the country beyond an imprecise provision in the national Constitution, and the absence of legislation prohibiting violence against women.

On 14 January 2011, ERT contributed to a conference in Brussels on equality for Roma in the area of education. The conference was organised by the **European Economic and Social Committee**. ERT also contributed a paper on the use of equality and anti-discrimination law in advancing LGBT rights in the Commonwealth to a conference on “LGBT Rights in the Commonwealth: Historical Legacies and Contemporary Reforms”, organised by University of London Institute of Commonwealth Studies and Commonwealth Human Rights Initiative in London on 17 January.

On 9-10 February 2011, an ERT representative served as Expert in an Expert workshop on the **prohibition of incitement to national, racial or religious hatred** (article 20 ICCPR), organised by the **UN OHCHR** in Vienna. ERT presented a paper on the impact that European national equality and human rights institutions as well as civil society have had on the legal and policy approaches to incitement.

In March 2011, ERT made a stakeholder submission on **Thailand** to the twelfth session of the **Universal Periodic Review** (UPR). The submission focused on the treatment of Rohingya “boat people” by the Thai authorities since 2008, and urged Thailand to remedy existing human rights violations against the Rohingya and review its policy with regard to the Rohingya in order to uphold its human rights obligations.

In the same month, ERT submitted a shadow report to the **Universal Periodic Review of Moldova**. Using examples from the caseload of a project which ERT is implementing in partnership with the Promo-LEX Association in Moldova (see further below), the submission highlighted some of the most significant challenges and problems facing the government of Moldova in fulfilling its obligations to prevent discrimination against women, and particularly its obligation to prevent gender-based

discriminatory ill-treatment, with reference to the prevalence of domestic violence. The submission recommended that the government of Moldova: (i) take steps to adopt comprehensive anti-discrimination legislation and policies; (ii) amend the existing gender equality law to guarantee that women have an adequate means of legal redress for the harm they suffer as a result of widespread discrimination, and more specifically, discriminatory ill-treatment; (iii) take steps to develop and support an information campaign on gender equality and the roles of men and women in Moldovan society, with the aim of overcoming the stereotypes and prejudices that contribute to gender discrimination; (iv) create an independent equality body which would have strong powers, including the provision of assistance to victims of discrimination, research and recommendations on improving legislation, and public education on equality, including gender equality; and (v) take steps to ensure more effective enforcement of the existing legislation intended to protect women from domestic violence.

A **German translation** of the Declaration of Principles on Equality has been produced and uploaded on the ERT website in April 2011. This adds to the translations into several other languages which have been publicized earlier by ERT (Bulgarian, Romanian, Russian and Spanish). The translation of the Declaration into French and Portuguese is in progress.

A2. National Level

On 27 May 2010, ERT organised a public lecture at the University College London by ERT Trustee Ted Shaw, professor at Columbia Law School (New York), on the topic **“Will Obama Deliver on Equality?”** The lecture offered a sobering analysis of the limitations faced by the Obama administration with regard to equality-related policies. It was well attended and met with interest by a diverse audience of legal professionals, students and members of the public interested in equality.

On 17 June 2010, ERT participated in a symposium **“Equality and Diversity Issues in the Workplace”**, organised by Oxford Brookes University, in Oxford. The ERT representative talked about the unitary perspective on equality in the **British context**, in the concluding panel aimed at drawing lessons from the symposium.

On 10 July 2010, ERT joined over 50 leading women’s and human rights organisations in a statement which called on **the UK Government** to drop its **proposal to give anonymity to those accused of rape**. It also called for efforts and resources to instead focus on securing sustainable services for survivors of sexual violence and improving the investigation and prosecution of offenders.

On 1 September, ERT Executive Director Dimitrina Petrova delivered a public lecture **in Suva, Fiji**, entitled **“Recent Trends in the Development of Equality Law”**. The event was organised by the Citizens’ Constitutional Forum and the University of the South Pacific as part of an annual lecture series attended by academics, civil society, the media, government officials, diplomats and the general public. The lecture as well as a series of meetings Dr Petrova had in the course of three days with civil society organisations, international organisations present in Fiji and academics, were an opportunity to advocate that the principles of equality are included in the expected constitutional reform in Fiji.

In September 2010, ERT issued a statement calling on the government of **France** to adhere to the European Parliament Resolution dated 9 September 2010 and immediately halt the process of so called “voluntary deportation” of Roma immigrants residing in the country. ERT made a detailed argument on why French policy constituted direct discrimination on an ethnic basis. Moreover, concerned by the news that the Italian authorities too had resumed dismantling Roma camps, ERT

called on the European Commission to adopt a Roma strategy which would ensure equal rights for the Roma in a manner which respects them as European Union citizens.

Also in September 2010, ERT wrote to the Prime Minister of **India** and the Indian External Affairs Minister to urge a change to the country's visa and immigration policy, which discriminates against UK citizens of Pakistani origin. A copy of the correspondence was sent to the UK Foreign Secretary, alerting the Foreign and Commonwealth Office of ERT concerns.

In the same month, ERT received a visit from the President of the **Australian Human Rights Commission** to discuss the UK Equality Act in the context of the legislative process towards adopting a similar Act in Australia. ERT also raised issues arising from its research on Australia in the context of statelessness and immigration detention.

In December 2010, ERT advised its partner organisations in **Kenya**, the Federation of Women Lawyers and the Kenya Human Rights Commission, on responses to proposals brought forward by the Kenya National Human Rights Commission for legislation to establish a new, combined Human Rights and Equality Commission. The partners produced a "Legislative Advisory" statement calling for the establishment of a single Commission, and for the legislation establishing the Commission to contain the substantive elements of comprehensive anti-discrimination law in order that its functions with regards to equality are clear.

On 15 February 2011 ERT, the Cambridge Centre for Public Law, and the UCL Institute for Human Rights co-hosted an event to mark the launch of Bob Hepple's new book "*Equality: The New Legal Framework*". The book was introduced by Lord Lester of Herne Hill QC, after which the author spoke about the development of the **Equality Act in the UK** and the opportunities and challenges for the future of equality.

In March 2011, ERT wrote to Mr Babatunde Raji Fashola, the Governor of Lagos State, to urge him to sign and bring into force the **Lagos State Special Peoples Bill 2010** before the end of his current term as Governor of Lagos State on 27th May 2011. The brief highlighted that the Special Peoples Bill incorporated many of **Nigeria's** existing obligations towards persons with disabilities both under international human rights law and the Nigerian Constitution.

Also in March, ERT wrote to the members of two Commissions of the **Moldova Parliament** – the Parliamentary Commission on Human Rights and National Minorities and the Parliamentary Commission on Legal Affairs and Immunity – to urge them to consider and adopt certain recommendations on the Draft Law on Preventing and Combating Discrimination which was approved by the Ministry of Justice on 17th February 2011. The submission welcomed the adoption of comprehensive and specific anti-discrimination law as a necessary first step to implementing many of the international human rights obligations of the Republic of Moldova. The submission then set out recommendations relating to some of the key concepts which govern both international and national anti-discrimination law which have been loosely or erroneously applied and would significantly weaken the protection offered by this law if not amended.

In April 2011, ERT issued a statement welcoming **Syria's** move to grant citizenship to ethnic Kurds who had been stateless for five decades, calling for proper administrative measures to be put in place to expedite the provision of citizenship to the Kurds from Hasaka region, and urging that all past injustices and disadvantages they faced are rectified through positive action.

On 12 April 2011, ERT delivered a training workshop to the Equal Treatment Commission (ETC) of the **Netherlands** on the use of strategic litigation in advancing equality. The training was a part of a series of events aimed at preparing ETC reform which will upgrade it and add new functions to its mandate.

On 19 May, ERT co-hosted a public lecture in London, at the University College London, delivered by ERT Trustee Kate O'Regan, former judge in the Constitutional Court of South Africa. She spoke on the topic: "**What should we expect from progressive equality jurisprudence? The case of South Africa**". The lecture was followed by a lively discussion focusing on the lessons to be learned from the experience of equality litigation in South Africa in the last five years.

B. Thematic Projects

Thematic projects focus on a certain aspect of equality and non-discrimination and their scope is either global or multi-country. In May 2011, ERT had completed one and was implementing five thematic projects.

B1. The State, Religion and Healthcare in the European Union: Policies and Trends

In the report period, ERT followed up on the **completed project "The State, Religion and Healthcare in the European Union: Policies and Trends"**. This project, launched in June 2008, resulted in a policy study published in September 2009 under the title "Religion and Health in the European Union: Policy Issues and Trends".⁵ The study covered a number of policy issues which affect the right to equality of both healthcare practitioners and patients and on which religion has great influence: from euthanasia to fertility treatment; from belief-based exemption from performing abortion to the medication and dietary needs of religious patients; from organ donation to contraception; and from circumcision to suicide. It is available both as a book and online. Presentations of the study have been made at several conferences and similar events, including at the UN Alliance of Civilisations, the European Parliament grouping on religion and secularism, and specialist gatherings. Articles based on the study have been solicited, and in response ERT has contributed to the UK *Bulletin of the Discrimination Lawyers Association* and *Practical Patient Care*. On 31 May 2010, ERT presented the study at a session organised in Brussels by the Network of European Foundations entitled "Religion and Democracy in Europe – Religious Plurality and Implications for Social Cohesion".

Outcomes and Impact

Through the publication of the book "Religion and Health in the European Union: Policy Issues and Trends", this project has a significant and lasting impact on governments and policy professionals, particularly within the European Union, as well as on equality advocates and independent national human rights and equality bodies in Europe. It has helped shape approaches to healthcare legislation and policies on issues on which religion has strong influence, including euthanasia, end of life issues, hospital policies, conflict of duty of healthcare practitioners, abortion, sterilisation, fertility treatment, HIV/AIDS, STDs, mental health issues (diagnosing of mental illness and therapy). There is evidence that the study has been broadly used and referred to at the intersection of healthcare and religion.

This completed project has developed ERT's expertise in the area of health equality. The organisation's growing interest in this field is reflected in the publication of a special issue of *The*

⁵ <http://www.equalrightstrust.org/view-subdocument/index.htm?id=624>

Equal Rights Review devoted to equality in the area of health, in March 2011 (see below). In the future, ERT plans to seek funding to maintain work related to the legal aspects of health equality.

The on-going thematic projects of ERT are outlined below.

B2. Stateless Persons in Detention

The purpose of this project is to contribute to strengthening the protection of the equal rights of stateless persons, particularly in the context of immigration, security and criminal detention. Having started in 2008, and having completed a first stage focusing on global research, the project currently continues in a second stage with a focus on advocacy. The project has **three objectives**:

1. To establish an international protection norm on stateless persons in detention through (i) strengthening international human rights protection of the stateless and (ii) developing human rights based guidelines on the detention of stateless persons.
2. Advocacy to change the law and policy pertaining to immigration detention practices at national and regional levels.
3. Disseminating ERT's expertise and enabling local NGOs and organisations to identify and act on behalf of stateless persons in detention.

ERT has made significant progress towards the achievement of all three objectives. In respect to the **first objective**, in June 2010, Amal De Chickera participated as Rapporteur at the Statelessness Session of UNHCR's annual NGO Consultation in Geneva. During the three day consultation, he participated in many side meetings, including with the International Detention Coalition in order to develop ERT's advocacy strategy on statelessness.

Following over two years of field research in a number of countries including Bangladesh, Egypt, Kenya, Malaysia, Thailand, UK, and USA, as well as legal research, in the Spring of 2010 ERT completed the comprehensive **final study** envisaged by this project. The draft was subjected to a rigorous internal review process and reviewed by a panel of external experts in the fields of human rights, equality, refugee law and statelessness, including Guy Goodwin-Gill, Colm O'Cinneide and experts from the UNHCR. On 19 July 2010, ERT launched the 60,000-word study under the title ***Unravelling Anomaly: Detention, Discrimination and the Protection Needs of Stateless Persons***.⁶ The study is a contribution to a growing body of expertise on statelessness. It clearly presents statelessness as an issue that should be of central concern in international human rights. The publication draws from the project's extensive country-specific research and legal research and makes several important findings and recommendations. Five hundred copies of the report have been printed and many have been disseminated to key persons and organisations working on statelessness, refugee rights, human rights and detention issues.

On 29 September 2010, ERT co-hosted, together with the International Commission of Jurists (ICJ) in Geneva a **side event to the 15th Session of the UN Human Rights Council**. The event, entitled *Statelessness, Discrimination and Human Rights*, was informed by the findings of ERT's report on statelessness, *Unravelling Anomaly*. A short film – *No Place To Go* – produced by ERT which featured interviews with two stateless persons in the UK was screened at the event. The speakers were Volker Türk, Director of International Protection at the UNHCR; Jan Borgen, Deputy Secretary General of the

⁶ The study is available online at <http://www.equalrightstrust.org/ertdocumentbank/UNRAVELLING%20ANOMALY%20small%20file.pdf>.

ICJ; Tamás Molnár, Legal Advisor at the Ministry of the Interior of Hungary, and Amal de Chickera, Head of Statelessness and Nationality Projects for ERT. In Geneva, ERT also had a number of meetings on the issue of statelessness, including with UNHCR, OHCHR (Special Procedures), and Secretaries of treaty bodies including the Committee against Torture (CAT) and the Committee on the Elimination of Racial Discrimination (CERD), and has been able to start and later develop a dialogue on statelessness with the key human rights treaty bodies and special procedures.

In May 2010, ERT attended an **UNHCR experts meeting** in Prato, Italy, on the definition of statelessness. The meeting was the first of a series, hosted by the UNHCR in order to develop authoritative guidelines pertaining to statelessness. The meeting focused on developing the definitions of *de jure* and *de facto* statelessness in order to ensure maximum protection for stateless persons. On 6-7 December 2010, ERT participated in the second UNHCR expert meeting on statelessness in Geneva. This meeting focussed on statelessness determination procedures and the rights of stateless persons. In May 2011, ERT participated in a UNHCR and OHCHR led international Roundtable event on alternatives to detention in Geneva and spoke on alternatives to detention in the context of statelessness.

In the report period, ERT has finalised its draft **Guidelines on the detention of stateless persons**. In July 2011, the Guidelines will be sent out to key experts in the fields of detention, statelessness, refugees and human rights for their review and a consultation draft will also be published in the August edition of the Equal Rights Review, allowing a wider circle of academics, experts and the general public to provide feedback on the draft.

In recent months ERT has carried out a comprehensive analysis of the manner in which UN treaty bodies have addressed statelessness and related human rights challenges in their work and on the relevance of statelessness as an issue to the specific mandate of each treaty body, with the intention of lobbying them to focus more on statelessness in the future.

Regarding the **second objective**, ERT has conducted activities in the UK and USA and also at EU level. ERT joined the **UK Detention Forum** of which it is an active member and has been a co-signatory of a letter to the Minister of Immigration, 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, and expressed concern about the disproportionate impact of immigration detention on stateless persons. In March 2011, Amal de Chickera made a presentation to the Forum on alternatives to detention with a specific focus on statelessness. On 13 April 2011, ERT co-signed a letter to the Parliamentary Joint Committee on Human Rights urging a reform of immigration detention, and in June 2011, it participated in the second Parliamentary meeting on immigration detention.

In February 2011 ERT met with Tom Brake MP (LibDem) and convinced him to, from time to time, ask **parliamentary questions** on statelessness on ERT's behalf and to champion the issue. Since then, at ERT's request, Mr. Brake has asked several parliamentary questions and tabled a few written questions on statelessness.

Engaging in **public advocacy in the UK**, ERT has spoken about statelessness and the impact of detention on stateless persons in the UK on a number of occasions, e.g. at the launch of a London Detainee Support Group's (now Detention Action) report on indefinite detention, on 27 September 2010.

Regarding advocacy at the **European level**, In December 2010, ERT was invited to run a special edition on statelessness by the *European Journal of Migration and Law*. The issue will comprise five articles and an introduction, and will be published as the 3rd issue of the *Journal* in 2012. Professor Brad Blitz (Kingston University and founder of the International Observatory on Statelessness) has agreed to be guest editor of the special, along with ERT's Amal de Chickera. In April 2011, ERT entered into discussions with a number of key stakeholders with a view to establishing a European Working Group on Statelessness. In February 2011, ERT participated in a meeting on the implementation of the European Returns Directive at the University of Nijmegen. In May 2011, ERT conducted a session on stateless Rohingya at the University of Galway Summer School on Migrant Rights.

In **the USA**, in 2010, ERT began work in partnership with the Law Clinic of the American University of Washington School of Law. The project focused on engaging US civil society organisations to prioritise statelessness in their work, and conducting advocacy around a recent proposal for a statelessness determination procedure in the USA. One of the priorities of this project is to provide technical assistance to the UNHCR for a mapping exercise of stateless persons in the USA. Additionally, ERT and the Law Clinic will be developing a training curriculum on statelessness, to be utilised in training to immigration and refugee service providers in the USA on statelessness.

Regarding the **third objective**, ERT is creating a new website on statelessness, intended as a leading resource on statelessness for NGO workers, policy makers, students and academics, and to this end ERT has worked with a web designer and creator since February 2011. The website will have the domain name www.statelessness.net and is planned to go live later in 2011. It will have an authoritative database on statelessness, testimonies of stateless persons, an interactive world map on statelessness, toolkits and trainings for NGOs on statelessness, a description of ERT's work on statelessness, an audio-visual section and various other features. ERT is producing website content for upload.

Outcomes and Impact

(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 (IDC), UNHCR, OHCHR and other key players to highlight statelessness as an important issue which must be addressed by immigration detention regimes. ERT has played a key role in emphasising the important role that alternatives to detention can play in protecting stateless persons from arbitrary and discriminatory immigration detention and in May 2011, was invited to speak at the UNHCR and OHCHR led international Roundtable event on alternatives to detention in Geneva. ERT's Guidelines on the Detention of Stateless Persons will further entrench the importance of the issue once published.

(2) **Changing attitudes of civil society towards statelessness** – ERT and its partners have been successful in changing attitudes of NGOs towards statelessness. Consequently, the issue is now increasingly being seen as an important one which must be addressed directly by civil society. As more NGOs around the world begin new projects on statelessness and/or to integrate statelessness into their existing work, the issue is being increasingly recognised as an important human rights issue which must be addressed. ERT has been one of the catalysts in this regard, and will be in a position to do more work in this area after its website on statelessness goes public.

(3) **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. The development of ERT's website on statelessness will enable the organisation to better disseminate all future outputs and keep the knowledge live in the future.

(4) **Promoting statelessness as a human rights issue** – ERT has been largely responsible for highlighting the human rights impact of statelessness through its report “Unravelling Anomaly” and for engaging with the UN treaty bodies to prioritise the issue as one which is central to their mandates. While ERT's impact in this regard is yet to be seen, it is an area in which ERT's contribution continues to grow.

B3. Law Enforcement Discrimination and Death in Custody

This project was launched in December 2007 with the **objectives**: 1) to systematise the existing knowledge on the relationship between deaths in custody and discriminatory policy or conduct by law enforcement bodies; 2) to enhance the global understanding of the nexus between deaths in custody and discrimination; and 3) to develop and promote new advocacy tools to complement existing investigation techniques and standards.

It was initially envisaged that as well as addressing non-country specific thematic concerns on this issue, the project would focus on the situation in individual countries, including Brazil, India, Nigeria, Russia and the USA. In 2008-2009 **country-based field research** was carried out in Brazil, India and Nigeria. In Brazil, research focussed on two states: Rio de Janeiro and Sao Paulo, and included interviews with witnesses and activists, formal requests for information on custodial deaths with the relevant authorities, and gathering secondary research material. Research in India focused on the states of Maharashtra and Karnataka, and included communications under Right to Information (RTI) process to obtain statistics concerning custodial deaths to relevant Government Ministries (Home Department and the Department for Women and Child Welfare) and the National Human Rights Commission under RTI legislation; submitting a written review of available National Human Rights Commission annual reports with specific reference to custodial deaths; conducting interviews with families of victims in the two states and lawyers and activists who work with these victims. In Nigeria the research focussed on four states: Abuja Federal Territory, Enugu, Kano and Lagos, and was accompanied by submitting written overview and analysis of pre-existing literature and information published by local and national NGOs on custodial deaths in Nigeria. ERT collected oral testimonies from families of victims; visited police stations and prisons in the four states, and spoke with the officers in charge; and submitted written requests to federal prison and police authorities for information on custodial deaths in the four states under review. In the USA, the work focused on California and Texas, and featured the use of excessive force as a reason for custodial deaths, including the use of tasers.

A **draft report** was written up and reviewed by external experts in early 2010. Due to insufficient staff capacity, ERT has postponed the finalisation of publications under this project. During the report period, further work on this project was on hold, but ERT frequently draw on the research in the preparation of statements and other materials. ERT is planning to have the previous work on this project reviewed and developed into one or more publications in the future.

Expected Outcomes and Impact

- (1) Publication of a global report on discriminatory detention and resulting discriminatory torture and death in custody, making a legal case for the positive duty of governments to introduce special measures to prevent the abuse of the most vulnerable while in detention;
- (2) Positive changes in the positions of international and regional human rights bodies to reflect the positive duty of governments to adopt enhanced protection of vulnerable detainees;
- (3) In the longer term, positive changes in national laws and policies to the same effect.

B4. The Unified Perspective on Equality and LGBT Rights

In September 2009, ERT launched a project **aimed at preparing a study to show 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. In 2009-2010 ERT performed desk research and contracted an expert consultant, Imam Mushin Hendriks, to prepare a paper on the position of Islamic law on homosexuality. The paper, in the form of an article, was published in Volume 5 of *The Equal Rights Review*. In May-June 2010 ERT drafted a paper on the use of equality law in promoting LGBT rights. It contained strategic advice for activists and funders. Comments by external reviewers were solicited.

In the next year, the work under this project is expected to 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 article, which has been solicited by the editors and which is based on an ERT conference paper, has been submitted and approved, and the over 100-page study has been drafted and is awaiting review.

Expected Outcomes and Impact

- (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;
- (3) Improved dialogue between LGBT groups, faith-based (particularly Muslim) actors and civil society, particularly human rights organisations.

B5. 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 on 26 November 2010 with partner organisations in India (Human Rights Law Network) and Nigeria (Legal Defence and Assistance Project). Its **overall objective** is to reduce the incidence of torture and ill-treatment of persons with disabilities. Its specific objectives include:

(1) to increase understanding and awareness of the nature of discriminatory torture and ill-treatment⁷ of persons with disabilities and of the relevant international, regional and domestic law and jurisprudence;

(2) to contribute to the development of relevant jurisprudence through targeted strategic litigation;

(3) to build the capacity of CSOs in India and Nigeria to utilise the human rights framework and mechanisms in their work on torture, discrimination and the rights of persons with disabilities.

In January 2011, ERT travelled to Lagos and to Delhi and conducted **planning meetings** with its partners. The project teams in Nigeria and India have spent the first quarter of 2011 working on **national baseline studies**, following detailed guidelines developed by ERT, and aimed at providing an assessment of: (i) the main patterns of discriminatory ill-treatment against persons with disabilities in their respective countries; (ii) the international and domestic law obligations relevant to the discriminatory ill-treatment of persons with disabilities; and (iii) the existing capacity of civil society organisations and lawyers to identify and challenge such discriminatory ill-treatment. The project teams have also identified four local consultants in each of their respective countries who are carrying out monitoring and documentation of discriminatory ill-treatment against persons with disabilities in different geographical areas. The local consultants will produce reports in August/September 2011 which will feed into Resource Packs on Torture and Cruel, Inhuman and Degrading Treatment of Persons with Disabilities, to be published in each of the two project countries in the second half of 2012.

In the next two years, this project will focus on research and drafting of the Resource Packs; identifying 20 strategic litigation cases which will be taken under the project; and two training workshops in each of India and Nigeria for lawyers and civil society organisations on the law relating to the torture and cruel, inhuman and degrading treatment of persons with disabilities and strategies through which to challenge such human rights violations.

Expected Outcomes and Impact

(1) Increased understanding and awareness on torture and disability among key stake holders;

(2) Active engagement with Indian and Nigerian governments and international human rights bodies, including the UN Human Rights Council, the Committee against Torture, the Human Rights Committee, the Committee on the Rights of Persons with Disabilities, some of the Special Procedures and the African Human Rights Commission on the research findings and recommendations contained in the Resource Pack;

(3) Improving the quality of life and securing redress for persons with disabilities who have been subjected to torture or ill-treatment through the initiation of a minimum of 10 strategic litigation cases in each country.

(4) Increased capacity of civil society through participation in training and discussion forums for a minimum of 80 individuals (40 from each country) and a further 20 individuals from the sub-regions of South Asia and West Africa (10 from each)⁸.

⁷ "Ill-treatment" is meant to cover "cruel, inhuman and degrading treatment" as understood in the UN Convention against Torture.

B6. Strengthening Human Rights Protection of the Rohingya

The Rohingya - an ethnic, linguistic and religious (Muslim) minority in Burma, are a stateless community who are vulnerable to acute human rights abuse and discrimination as a group. They have been rendered stateless, through the country's 1982 Citizenship Law, and their human rights have been systematically eroded through a series of draconian policies, taxes, and controls. Consequently, many Rohingya have fled Burma to numerous countries including Bangladesh, Malaysia, Thailand and the Middle East.

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. At the time of reporting, the project is in its planning and preparatory phase. ERT has recruited new project staff, constituted a Project Advisory Group and Project Management Committee, carried out a review of existing literature on the Rohingya, met with experts in the field and is developing its strategy.

Expected Outcomes and Impact

- (1) Comprehensive mapping of the Rohingya community including women and children, their human rights concerns and needs;
- (2) Increased capacity of civil society organisations at grass-roots, national and regional level to better protect stateless Rohingya within their constituencies.
- (3) Improved quality of life of stateless Rohingya through strategic activities aimed at addressing the human rights concerns and humanitarian needs faced by them.
- (4) impact on the direction of structural change to strengthen protection for stateless Rohingya in the ASEAN region by challenging the relevant states to address the Rohingya issue at national level and through a regional approach.
- (5) Increased visibility of the Rohingya issue and international activity to better protect the Rohingya.

C. Country Projects

As of May 2011, ERT was implementing **sixteen country projects in twelve countries**, including Belarus, Guyana, India, Indonesia, Jordan, Kenya, Malaysia, Moldova, Nigeria, Solomon Islands, Sudan, and the UK. Most projects have started during the report period and are thus quite recent, which makes it premature to present fairly their outcomes and impact. For this reason, except for the projects that are currently nearing completion, we have set out their expected outcomes and impact.

⁸ The sub-region of South Asia is defined according to the UN definition, and includes, apart from India, also Afghanistan, Bangladesh, Bhutan, Iran, Maldives, Nepal, Pakistan, and Sri Lanka. The sub-region of West Africa includes, apart from Nigeria, also Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, the Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Senegal, Sierra Leone, and Togo.

C1. Promoting Better Implementation of Equality and Non-discrimination Law in India

This project started in May 2009 and is being implemented in partnership with the Human Rights Law Network (India) 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. As part of the project ERT is working with HRLN to produce a comprehensive handbook for paralegals and human rights lawyers on equality and non-discrimination law in India from an international and comparative perspective.

In the report period, draft sections for the handbook were produced, including chapters on discrimination based on gender, disability, sexual orientation, religion, and caste. Further chapters are being finalised as of May 2011. Once ERT and HRLN staff have reviewed all chapters, the handbook will be sent for validation by independent human rights experts. In India, the expert team comprises Flavia Agnes (Women's Rights), PS Krishnan (Caste & Tribal Status), Amita Dhanda (Disability), and Aditya Bandopadhyay (Sexual Orientation). In UK, the expert team comprises Colm O'Conneide (Caste and Religion), Robert Wintemute (Sexual Orientation) and Anna Lawson/Oliver Lewis (Disability). The publication is expected by 30 September 2011.

Following on a first training workshop held in Mumbai in December 2009 and targeting NGOs and lawyers, a legal colloquium was held on 29-30 January 2011 in Delhi. Its target group of participants consisted of members of the judiciary, including Supreme Court and High Court judges. 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. Indian speakers included P. Sathashivam J., R. V. Raveendran J and A.K. Ganguly J from the Supreme Court and Deepak Misra CJ, Mukhopadhaya CJ, F I Rebello CJ and M.S. Shah CJ from the High Courts. 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 recent equality and non-discrimination decisions from the Indian High Courts; the UK Equality Act 2010 and recent jurisprudence from the UK courts; disability discrimination in India; discrimination on the grounds of gender and sexual orientation in South Africa; and 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. This was the first time that ERT has been involved in the organisation of a judicial colloquium and was therefore guided by the views of its partner organisation, Human Rights Law Network, given their previous experience in working with and organising such events for the Indian judiciary. A number of lessons have been learnt from this experience, including the importance of targeting the judiciary for training and international exchange of experience in future ERT projects.

Outcomes and Impact

(1) The project has **built capacity on modern equality law** among civil society organisations, lawyers and judges. Thirty-seven human rights activists and lawyers benefitted from the Mumbai Workshop in December 2009, and 30 judges benefitted from the Judicial Colloquium in January 2011. Follow-up training has already been given by participants in the Mumbai Workshop to at least 200 additional human rights activists and lawyers. The project partners envisage that this process will continue beyond the end of the project, as the knowledge gained by the participants in the Mumbai Workshop, and further training delivered by participants, combined with the availability of the

Handbook on Equality and Non-Discrimination Law as a training resource, will continue to be relevant in forthcoming years.

(2) The project has had a tangible **impact on the capacity of Indian lawyers and civil society organisations to litigate equality cases** in India. The participants in the Mumbai Workshop have proceeded to apply international and comparative standards on equality and non-discrimination when litigating on discrimination issues before the Indian courts, including in the following cases:

- i) *Laxmi Mandal v Deen Dayal Hari Nager Hospital & Ors* W.P. 8853/2008, and *Jaitun v Maternity Home, MCD, Jangpura & Ors* W.P. No. 10700/2009, Delhi High Court;
- ii) *ICHR v Indian Railways* (April 2010), Bombay High Court;
- iii) *Special Educators Case* (2010), Delhi High Court;
- iv) *Syed Bashir-Ud-Din Qadri v Nazir Ahmed Shah & Ors* (March 2010), Supreme Court;
- v) *AICB v Indian Railways* (Feb 2010), Supreme Court;
- vi) *Naresh Gangaram Gosavi and another v Chembur Education Society* (2011), Bombay High Court;
- vii) *The National Association of the Deaf v Union of India and Ors* (WP (C) 10849/2009), Delhi High Court.

It is anticipated that the impact of having achieved this purpose will be further strengthened after the publication and distribution of the Handbook on Equality and Non-Discrimination Law at the end of September 2011, as lawyers and activists will be able to use the Handbook as a useful reference for the development of international and comparative law arguments in support of their equality and non-discrimination cases.

(3) The list of cases set out above demonstrates the project's **impact on jurisprudence** in that strong judgments have been passed down on a range of equality and non-discrimination issues, including sexual orientation, gender, disability and caste discrimination, drawing on international and comparative best practice by the Supreme and High Courts of India. As demonstrated in the judgment of Chief Justice Deepak Misra of the Delhi High Court in the case of *The National Association of the Deaf v Union of India and Ors* (WP (C) 10849/2009), those members of the judiciary who attended the Judicial Colloquium in January 2011 will now be sensitised to the issues discussed during the Colloquium and may therefore be more likely to apply international and comparative best practice in their judgments on relevant Indian law cases. The project will have a further cumulative impact on equality jurisprudence, as the more judgments on equality and non-discrimination issues which refer to international and comparative law that are issued and read by judges and lawyers who have not participated in the project activities, the more such references will appear in future legal arguments and judgments.

C2. Kenya: 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. ERT is working 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 lobbying strategy.

Following two baseline studies, a roundtable discussion and a series of trainings in anti-discrimination law in the preceding period, during the report period ERT continued to implement this project to a high standard. In May 2010, a study tour for a six-member working group of Kenyan experts was hosted in the UK to meet with equality stakeholders and learn from the process of elaborating what became the Equality Act 2010. In July 2010, ERT travelled to Kenya for a further series of roundtables and trainings according to the project's schedule. In mid-July, ERT and its partners convened a roundtable in Nairobi for civil society and other stakeholders to discuss the recommendations made by the working group and undertake further work to develop a Legislative Map for an Anti-discrimination Bill. Participants included representatives of the National Gender and Development Commission and Council for Persons with Disability, as well as a diverse range of civil society organisations. Members of the working group which had visited the UK in May 2010 presented the recommendations in each of the areas which had been covered during the study tour. Each set of recommendations was subjected to discussion and a number of amendments were made to the substance of the recommendations. It was agreed that these revised recommendations should form the basis of the Legislative Map. The participants then split into four groups to engage in further discussion on elements of the law. Three of the groups focussed on issues of substance: exceptions, affirmative action and the establishment of an enforcement body and developed recommendations in these areas. The final working group discussed issues of advocacy strategy and recommended several areas of action.

In July and August 2010, the conclusions of the roundtable event were developed into a detailed Legislative Map, providing the basis for a draft Anti-discrimination Bill. In September 2010, ERT's partners began a process of engagement with key stakeholders, including the Kenya Law Reform Commission and the Kenya National Commission on Human Rights (KNCHR). Two further stakeholder briefings were held in late September and early October 2010, to engage interested parties from civil society, business and academia. A simplified "Statement of Principles for Equality Law" was produced, to be used as the basis for securing support from civil society actors for the introduction of a new 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 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 2010, 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 KNCHR, where the proposals were well received. Following this, a statement containing a detailed response to proposals put forward by KNCHR was prepared, and sent to relevant ministries and commissions in an effort to secure the

support of key stakeholders for the adoption of the partners' approach and the inclusion of the Legislative Map provisions in the new legislation.

The project's final two one-day workshops - aimed at lawyers and the media - took place in Nairobi in February and March 2011. The lawyers' workshop was organised in partnership with the Law Society of Kenya and was accredited as part of their ongoing professional education programme. The workshop combined technical training with awareness-raising about the importance of comprehensive anti-discrimination law and was highly successful at building support among 40-50 members of the Kenyan bar. The media workshop was aimed at sensitising different sections of the media to the partners' proposals for comprehensive anti-discrimination law: it started with a breakfast meeting for editors and senior correspondents, and continued with training modules for more junior reporters.

The lawyers' workshop was delivered alongside a public debate on proposals for the adoption of comprehensive anti-discrimination law. The panel for the debate included Commissioner Lawrence Mute from the KNCHR, Mumbi Ngugi from the Albinism Foundation of East Africa, Tom Kagwe from the Kenya Human Rights Commission, and Barbara Cohen, ERT consultant. The debate received excellent coverage from the Kenyan national media, including a number of national TV networks.

In late February, the project partners issued a legislative advisory on the content of legislation required by Article 59 of the Constitution, and sought meetings with various key ministries. In March, the partners met with the Parliamentary Committee on Equal Opportunities, the National Council for Persons with Disabilities, the KNCHR and the National Gender and Development Commission.

In April 2010, ERT's partners continued to engage in discussions over the content of planned legislation to establish the Kenya National Human Rights and Equality Commission (or its successor commissions). Different government departments and Commissions are currently defining their views on the future of the KNHREC: in mid-April, the Ministry of Justice published three Bills for the establishment of three separate Commissions, while the current KNCHR published a Bill to establish a single Commission. ERT engaged its partners in discussions on responses to these developments, and provided commentary on the various draft Bills. A stakeholder forum was convened to discuss these options on 6 May 2011, and ERT's partners were invited to attend and to make a presentation on the need for legislation establishing any Commission(s) to incorporate substantive anti-discrimination law, as contained in the partners' Legislative Map.

Plans are being developed for a set of further roundtable events to raise awareness of the partners' legislative reform agenda with key stakeholders, and to continue engaging key ministries and commissions. In addition ERT is planning a project visibility event to be held in London after the formal ending of this project (30 June 2011). The event will promote the project's approach and achievements, and seek to build support among UK equality lawyers for further work on anti-discrimination law as a means to address injustice and alleviate poverty in developing countries.

Outcomes and Impact

In its second year, this project has made substantial progress towards achieving its purpose: ERT has overseen a process through which civil society has taken a leading role in defining a national anti-discrimination regime in Kenya. Civil society organisations have developed draft comprehensive equality legislation and built and implemented an advocacy strategy for its adoption. The members of a working group established under the project have assumed a role as national experts on equality

law. The advocacy effort has been sufficiently successful at making the case for integration of substantive equality legislation into forthcoming legislation and there is a strong chance that a law reflecting civil society's views will be enacted in the near future.

C3. Kenya: Embedding Equality under Kenya's New Constitution

This project **aims to build on the project described above** and is run by ERT in partnership with the Kenya Human Rights Commission. It envisages the development of a detailed country report on discrimination in Kenya; delivery of training to judges, health and education professionals and 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. The project commenced on 1 October 2010.

In the period October - December, substantial progress has been made on the desk research and drafting phase of the country report on discrimination, a first draft of which has now been completed. In March 2011, ERT undertook a six-day research visit to Kenya facilitated by KHRC project officer Monicah Kareithi and consultant Joy Matara. The team travelled to a range of locations across the country (including Central, Nyanza and Coast provinces) and interviewed a variety of groups including women, persons with disability, persons living with HIV/AIDS, men who have sex with men and persons with albinism. In addition, the team sought to investigate patterns of ethno-regional discrimination in respect of political representation and access to resources. In this respect, the team conducted focus groups with a Luo community in Nyanza province and persons from the Coastal region in Mombasa, as well as interviewing members of a Turkana community in a village outside Isiolo which has been the victim of discriminatory resource and planning policies by the local District Commissioner. The following week, Ms Kareithi and Ms Matara travelled to Wajir, in the marginalised North East of the country to conduct further focus groups and interviews. A final draft of the report has been completed in the first week of May 2011. Plans are currently being developed for the four training workshops which will be delivered by the project partners and work is on-going to identify cases for strategic litigation.

Expected Outcomes and Impact

- (1) Increased information on, and raised awareness of, the constitutional right to non-discrimination;
- (2) Increased capacity of key decision makers to use and implement the right to non-discrimination in their work;
- (3) Increased and improved jurisprudence on the right to non-discrimination under the 2010 Constitution.

C4. Kenya: Promoting LGBTI Rights in Kenya in a Unified Equality Framework

In October 2010, ERT launched a third project in Kenya whose **purpose** is to utilise the unitary framework on equality in promoting LGBT rights. This year-long project envisages the production of two documents: a guide to combating discrimination in Kenya with a focus on LGBT equality, and a feasibility study on ways to mainstream LGBT rights within equality and human rights. It is

implemented together with two project partners, Gay and Lesbian Coalition of Kenya (GALCK) and Kenyan Human Rights Commission (KHRC).

The Advisory Committee of the project includes ERT Trustee, the Ugandan lawyer Sylvia Tamale; Professor Henrietta Moore, a social anthropologist teaching at LSE and specialising on gender roles and sexualities in East Africa; Muthoni Wanyeki, Director of the KHRC; Wanja Muguongo, Program Manager at UHAI, a sexual rights funding organisation; Nguru Karugu, independent consultant based in Kenya, and Zawadi Nyong'o, a Kenyan activist.

In late November and early December 2010, ERT undertook a ten-day study tour to Kenya, visiting Nairobi, Mombasa and the Turkana District. The tour enabled ERT to collect abundant testimony on patterns of discrimination in Kenya, principally investigating discrimination against LGBTI persons and ethno-regional discrimination affecting those living in the remote and marginalised Turkana province in north-eastern Kenya. In Mombasa, ERT and its partners conducted focus group discussions with LGBT activists and collected testimony from most vulnerable members of the LGBT community, such as male and transgender sex workers, some of whom are living with HIV/AIDS and/or have been subjected to systematic police abuse and discrimination by health authorities, religious leaders and others. In and around Lodwar in Turkana, ERT and partners collected information about discriminatory policies over decades that have resulted in a state of isolation, deprivation and poverty in the District. The field research forms part of preparing a handbook and feasibility study which will be the principle outputs of the project, as well as contributing to the report on discrimination and inequality in Kenya envisaged under the project *Embedding Equality under Kenya's New Constitution* (see above).

The field research for the second document is planned for the summer of 2011 and will focus on interviewing a range of stakeholders to explore ideas about institutional strengthening of the equality movement so as to include sexual orientation and gender identity equalities and provide a basis to funders and others on strategic planning of further actions.

Expected Outcomes and Impact

The project's overall impact will consist in creating preconditions for better protection from discrimination of the legal rights of LGBTI and other vulnerable groups. While this one year project will be only a preparatory stage for further work, it will still have measurable impact in contributing to:

- (1) Stronger, more confident and better included constellations of LGBTI activists;
- (2) Improved understanding among the target groups of equality as a right and as a value on which broader consensus is needed in present-day Kenya, 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) Contribution to the development of comprehensive national equality legislation and policies giving effect to the universal right to equality.

If the project and especially the feasibility study succeed in influencing decision-makers, it may result in a larger coordinated investment in equality in Kenya and the region, inclusive of sexual orientation and gender identity.

C5. Kenya: Improving Access to Justice for Victims of Gender Discrimination

This project, the fourth for ERT in Kenya, commenced on 1 April 2011. Its **purpose** is 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 (FIDA-Kenya) and its planned duration is four-and-a-half years.

In April 2011, the ERT project team met to finalise roles and planning. Members of the project team also held detailed planning discussions with the project partners. ERT produced guidelines for the completion of a feasibility study to be undertaken by FIDA-Kenya. ERT also appointed an Independent Selection Committee which has selected the first 10 participating community-based organisations (CBOs) to be beneficiaries of the project. ERT will visit Kenya in July 2011 to conduct training of the first group of selected organisations and practicing lawyers.

Expected Outcomes and Impact (within 5 years)

(1) Women in 60 communities will have access to 60 lawyers with newly acquired or strongly improved expertise on discrimination enabling them to tackle discriminatory barriers to development.

(2) Within 4 years, women in 60 communities will have access to 60 CBOs with the capacity to identify discrimination and provide basic legal assistance, including when necessary, referral to partner lawyers. In each year, a group of organisations will be trained, partnered with a local lawyer and funded to establish legal services. Organisations will be recruited in phases so that significant support can be provided during set-up.

(3) 60 community-based organisations will have increased capacity to manage legal services and FIDA-Kenya will have increased capacity to manage strategic litigation of discrimination cases. This will ensure these activities are sustainable, with the effect that vulnerable women will continue to enjoy improved access to justice after the project ends. CBOs will benefit from training provided during workshops, supplemented with guidance and support.

(4) 6500 women and girls will have enjoyed improved access, on an equal basis with men, to healthcare, employment, education, and justice. For example, discrimination preventing wives from succeeding to their husband's property, women from achieving equal pay or girls from completing education will be challenged. In each project year, Legal Assistance Scheme Partnerships (LASPs) will be established by CBOs and lawyers (Y1: 10, Y2: 20, Y3: 40, Y4: 60) to provide legal advice to a minimum of 50 women, of which 10 with serious cases will receive litigation counsel.

(5) Within 6-10 years, jurisprudence on gender-based discrimination will have improved, with the effect that a greater range of cases are successful. Cases will be designed to address discrimination in education, employment, succession and other areas where discrimination perpetuates poverty.

C6. Malaysia: Empowering Civil Society to Combat Discrimination through Collective Advocacy and Litigation

Launched in March 2010, this project has the general **purpose** 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. In aiming to reach this purpose, the action works towards **two specific objectives**:

- 1) 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) Create an institutional framework for civil society dialogue and strategic intervention on equality and discrimination issues through establishing an Equality Forum.

The project involves the provision of training to civil society actors, lawyers and the judiciary on equality law, development of a report on discrimination in Malaysia, and the establishment of a Malaysian Equality Forum to enable and encourage public dialogue on sensitive equality issues. ERT has overall responsibility for the implementation of the project and its local partner is the Kuala Lumpur-based NGO Tenaganita.

In the report period, Tenaganita has established the project's Core Team, which includes several organisations including, among others, Empower, Sisters in Islam, and the Malaysian Bar Council Human Rights Committee. Meetings of the Core Team have taken place on 1 June, 4 September and 21 September 2011. The establishment and development of an Equality Forum has been the main focus of the Core Team during these meetings.

A first Equality Forum was held on 4 September 2010. It was a half-day program attended by over 60 participants from 30 different NGOs, faith-based and other organisations. The second forum took place on 12 November 2010.

In January 2011, ERT and Tenaganita finalised a Baseline Study, which provides an assessment of the key patterns of discrimination in Malaysia and the existing capacity of civil society to address equality issues. This study has informed the research process for the report on equality and non-discrimination jurisprudence in Malaysia which is progress.

The third Equality Forum convened on 29 January 2011. ERT attended the Forum and gave a lecture on "Race Equality Legislation and Jurisprudence in the UK and Europe". The discussion which followed focused on a critical and sensitive issue in the Malaysian context – the constitutionally-based affirmative action favouring the Malay, and treating less favourably the Chinese, Indian and other communities that together constitute about half of the country's population.

A training workshop on Equality and Non-Discrimination Law took place on 24-26 June 2011 in Kuala Lumpur. ERT and Malaysian trainers have worked together during April and May to finalise the training programme, which provided an introduction to: (i) basic concepts and overarching principles of equality law; (ii) the main issues relevant to litigating on women's rights and gender discrimination, with a particular focus on CEDAW as one of the few international human rights conventions which Malaysia is a party to; and (iii) Malaysian equality law and the manner in which the Malaysian courts approach the issues of equality and non-discrimination.

This project also requires ERT and Tenaganita to contribute to two strategic litigation cases involving equality and non-discrimination issues. ERT is currently preparing a legal brief to be submitted in support of a case in which four transgender applicants are challenging, by way of judicial review, the Shariah law which criminalises cross-dressing.

Expected Outcomes and Impact

- (1) Improved technical capacity of 30 CSOs to identify equality issues and pursue advocacy and litigation strategies to promote equality;
- (2) Publication of an authoritative review of domestic jurisprudence on equality and non-discrimination benchmarking against treaties to which Malaysia is signatory;
- (3) Two strategic litigation cases regarding the right to equality;
- (4) Malaysia Equality Forum established and functioning after the project's end;
- (5) Judges and prosecutors exposed to persuasive and authoritative legal arguments promoting substantive notions of equality;
- (6) Government Ministries coherently engaged in civil society actions to promote equality and non-discrimination.

C7. Moldova: Strengthening Legal Protection from and Raising Awareness of Discriminatory Ill-Treatment in the Republic of Moldova, Including Transnistria

In April 2010, this 18-month project conducted by the Chishineu-based organisation Promo-Lex in partnership with ERT has been launched in Moldova. It has two general **objectives**: (1) to contribute to strengthening the legal protection from discriminatory ill-treatment; (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. In May 2010, ERT provided opinions on individual strategic litigation cases. On 2-6 August 2010, ERT delivered training to approximately 30 human rights monitors and other human rights defenders in Chisinau, 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. ERT subsequently wrote an assessment tool to assist these trained monitors with drafting reports on four types of ill-treatment, based respectively on gender, race, sexual orientation, and disability.

In September 2010, ERT sent letters to the Moldovan Prosecutor General, the Minister of Labour, Social Protection and Family, and the Minister of Interior in relation to the domestic violence cases of Lidia Mudric, Lidia Rusu and Inga Raclenco. The letters urged full implementation of the recent legislative amendments concerning the prevention 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 the framework of the project, translation and publication of four issues of *The Equal Rights Review (ERR)* is envisaged, starting with Volume Four. On 2 November 2010, ERT participated in a launch event of *ERR* in Romanian in Chisinau which was well-attended by approximately 30 young lawyers

and judges. ERT representative gave an introduction to *ERR*, explaining the philosophy behind the journal and its key role within ERT's strategy. She then introduced Volume Four, focusing on the importance of the unified perspective on equality for those promoting LGBT rights. A Promo-Lex lawyer 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.

On 15 March 2011, ERT participated in an event which marked the publication of Volume 5 of *ERR* in Romanian. The event took place in Chisinau and was attended by approximately 50 young lawyers and judges. ERT and Promo-Lex made presentations on hate crime against members of the LGBT community. This event was well-timed as during the same week, the homophobic lobby in Moldova was challenging the inclusion of sexual orientation as a prohibited ground of discrimination in the draft Anti-Discrimination Bill which is currently before the Moldovan Parliament. ERT subsequently sent a letter to the members of the two Parliamentary Commissions responsible for considering the draft Anti-Discrimination Law, urging them to enact the legislation with certain suggested amendments based on the Declaration of Principles on Equality.

A further aspect of this project involves Promo-Lex and ERT working together in support of selected strategic litigation cases. The Promo-Lex team has identified 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.

Expected Outcomes and Impact

- (1) Increased protection of fundamental human rights principles within the context of prohibition of discriminatory ill-treatment through positive decisions by domestic, regional and international courts;
- (2) Greater awareness among civil society actors, lawyers, judges, academics and decision-makers of international human rights obligations in the context of prohibition of discriminatory ill-treatment, leading to increased litigation in defence of these principles and greater respect for them by decision-makers;
- (3) Greater capacity among civil society actors to develop efficient advocacy and information campaigns on prohibition of discriminatory ill-treatment;
- (4) Increased capacity among human rights defenders/lawyers to develop arguments in the area of prohibition of discriminatory ill-treatment, based on international human principles;
- (5) Increased awareness of international and comparative human rights law developments in the area of security and rule of law among civil society actors and members of key public institutions;
- (6) Strengthened partnerships between civil society organisations and stakeholders for the purpose of focusing the resources in matters of legal protection, public mobilisation, and monitoring of abuses;
- (7) Increasing engagement of civil society actors and courts on human rights principles and

improved protection of individuals who are more likely to become victims of discriminatory ill-treatment.

C8. 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. ERT's role is to assist with equality law training of local activists. In March 2011, ERT conducted two-week long training for human rights activists on equality and non-discrimination law, with a particular focus on gender discrimination and violence against women which has been identified as one of the most significant discrimination issues in the Solomon Islands. The first week of the training covered human rights and equality law concepts, gender discrimination, violence against women and monitoring and documentation skills. The second part of the training was carried out in the form of practical skills training during field work, where ERT mentored the activists in leading community focus groups and interviews with victims of discrimination. Following this training, the trainees continued to carry out similar field work in their respective regions of the Solomon Islands.

Expected Outcomes and Impact

- (1) Civil society organisations will have better understanding of the use of human rights, equality and discrimination law concepts and expertise in advocacy and campaigning;
- (2) Raised awareness in the general public of human rights;
- (3) Improved cooperation and joint working between civil society groups;
- (4) An advocacy agenda enhanced by the training which will address the need to fill the gaps in legislation and to engage in international level advocacy.

C9. Sudan: 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. 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, the project's objectives have been carefully considered and the targeted outcomes have been set according to what is thought to be feasible in the country context.

ERT produced guidelines for the completion of the project baseline study on patterns of discrimination and inequality, a legal audit and an assessment of the capacity and needs of civil society. A draft of the study was completed by the partners in mid-March. The draft has been circulated to Sudanese members of the Project Advisory Committee for comments and these comments have been incorporated into the draft. The study has been translated into English and serves as the basis for the expert trainers who will deliver training workshops as a part of this project's activities.

Expected Outcomes and Impact

- (1) Increased information and evidence on discrimination available to civil society organisations;
- (2) Increased knowledge of discrimination law, concepts and techniques among eight human rights organisations, as well as lawyers and other affiliated civil society groups;
- (3) Increased cooperation between Sudanese civil society organisation in promoting equality and non-discrimination
- (4) Increased engagement with political and other stakeholders on equality issues.

C10. Sudan: Equality and Freedom of Expression

ERT launched this project on 16 October 2010. Its **objective** is to enhance the ability of Sudanese human rights defender 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. The project involves providing practical, technical and strategic support to a network of journalists and human rights defenders working in Sudan; the delivery of training; and the development of a website. ERT works with anonymous consultants operating from outside and inside Sudan. An Advisory Committee to the project has been formed, and it includes ERT Trustee Tapan Kumar Bose who has worked extensively in conflict environments; Larry Olomofofe, officer with experience on hate crime and hate speech working at the Organisation for Security and Cooperation in Europe; Konstanty Gebert, Polish journalist with decades of experience in dissident, underground and alternative media; and Sudanese human rights defenders, journalists and lawyers.

Regular contact has been maintained with the journalists' network from the start of the project, despite increased political tension and additional scrutiny by the Sudanese security services arising from the referendum on independence for South Sudan and in response to the popular uprisings in Tunisia, Egypt and Libya. There are currently around 30 full members of the network, and a larger informal group of interested contacts and trusted individuals.

In mid-February, journalists supported by the project issued a press release condemning the detention of journalists by the security forces. The press release - which named the victims and called on the Sudanese authorities to respect constitutional and international legal obligations to protect and promote freedom of expression and freedom of the media - was widely distributed among Sudanese journalists and was published on a number of Sudanese news websites.

Expected Outcomes and Impact

- (1) Strategy developed and implemented to ensure safe and secure communication of information on equality and human rights issues in Sudan;
- (2) Increase in the number and quality of civil society and media reports on restrictions of freedom of expression and association;

- (3) Improved capacity of 50 journalists to identify equality and human rights issues in their work and report from an equality and human rights perspective;
- (4) Improved capacity of Sudanese journalists to promote plural views on social, political and economic developments in Sudan including on the election and post-election issues;
- (5) Improved access to information at the national and international level on freedom of expression and association in Sudan;
- (7) Increased pressure on government and other stakeholders to support reform of law and policy on equality and human rights.

C11. Guyana: Empowering Civil Society to Challenge Homophobic Laws and Discrimination against LGBTI Persons

This year-long project started on 18 October 2010. Its **objective** is 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 partner is the Society against Sexual Orientation Discrimination (SASOD) based in Georgetown. In December 2010, ERT travelled to for a three-day planning visit. During the visit, the partners made plans for the completion of a baseline study, discussed project implementation and agreed the format of the project training workshops and roundtable. In addition, ERT met with civil society stakeholders and undertook research which will feed into the baseline study.

In January 2011, ERT and SASOD engaged in the completion of the project baseline study, to serve as a basis for focusing project activities. In the last week of May 2011 ERT delivered two workshops, facilitated by a number of Caribbean co-trainers.

ERT and SASOD have secured funding for a project which will commence on completion of the current one, and expect to achieve firm gains in Guyana for equality inclusive of sexual orientation and gender identity.

Expected Outcomes and Impact

- (1) Improved documentation of discrimination in the form of a published report;
- (2) Increased knowledge of discrimination law and concepts among civil society organisations;
- (3) Increased expertise among civil society organisations of documenting cases of discrimination;
- (4) Increased cooperation between civil society organisations through the creation of the Guyana Equality Forum.

C12. Discrimination and Torture in Nigeria

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. 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 20 victims of torture arising from discrimination. ERT's role is to review case reports to confirm that cases are eligible, assess claims for direct assistance and approve the use of project funds, while LEDAP is responsible for identifying cases and assisting victims to access services required. LEDAP has procured from local sources the assistance, which included filing legal claims for compensation in all cases, and providing medical, psychological or social assistance in some cases, as required by the circumstances. Two of the legal cases have already succeeded, and in one case, LEDAP was able to win N100.1 million (approximately \$645,000) for a victim who was shot and tortured by Nigerian police.

From January 2011, ERT began implementing a new cycle of the project, aimed at providing direct assistance to 25 victims of torture in Nigeria (in partnership with LEDAP) and 5 victims of torture in Thailand. Under this cycle, ERT reviewed 15 new cases identified by LEDAP. LEDAP commenced court proceedings in most of these cases and also provided medical, psychological and social assistance to the victims who were in need of such services. In addition to this, continued legal assistance was provided to 8 victims of torture who were provided with assistance under the previous cycle.

Expected Outcomes and Impact

- (1) By the end of 2011, legal redress for fifty victims of discriminatory torture in Nigeria.
- (2) Medical, psychological and/or social assistance to up to fifty victims of discriminatory torture.
- (3) Enhanced capacity of civil society and lawyers in Nigeria to react to torture in a professional way, compliant with human rights and equality principles.

C13. 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. The **specific objectives** are: (1) Improving documentation of religious discrimination; (2) Increasing cooperation between civil society organizations on tackling religious discrimination; (3) Increasing accountability for religious discrimination; (4) Increasing human rights protection and political participation for minority religious groups. This project 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 2010, ERT undertook detailed planning discussions with the project partners, the Indonesian Legal Aid Institute (YLBHI) and the Institute for Policy Research and Advocacy (ELSAM). In February 2011 visited Indonesia to coordinate activities with the project partners. ERT also met and interviewed representatives of two minority religious groups, the Ahmaddiya and the HKBP Christian minority, and participated in a delegation to the National Human Rights Commission (Komnas HAM).

ERT and its partners have prepared a baseline study which has been instrumental in conducting three training workshops in June 2011. The workshops provided an introduction to equality law, and

examined the intersection between the right to non-discrimination and the right to freedom of thought, conscience and belief, and had a focus on religious discrimination. The workshops were targeted at lawyers and paralegals from local legal aid institutes.

Expected Outcomes and Impact

- (1) Improved documentation of religious discrimination;
- (2) Increased knowledge of discrimination law concepts among civil society organisations;
- (3) Increased cooperation between Indonesian organisations on issues of religious discrimination;
- (4) Raised awareness of discrimination among key stakeholders and the wider public.

C14. Belarus: Empowering Civil Society in Belarus to Combat Discrimination and Promote Equality

This project started on 21 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 Belarusian Helsinki Committee. The project envisages the following activities: conducting a baseline study on discrimination in Belarus; training workshop on anti-discrimination law and policy; production of a comprehensive report on discrimination in Belarus based on monitoring and documentation; strategic litigation; roundtable on developing a legislative advocacy strategy.

In February, ERT travelled to Minsk for the launch of the project activities. Since February, the partners have been working on a baseline study to provide an accurate picture of NGOs and lawyers' needs, and a workshop on equality law was conducted by ERT in Minsk in June 2011. In the subsequent months, the work is focusing on documentation of cases of discrimination as well as selection of cases for legal action.

Expected Outcomes and Impact

- (1) Increased knowledge of discrimination law concepts among minimum ten NGOs in Belarus, expressed in high quality monitoring and reporting on discrimination;
- (2) Increased knowledge of discrimination law among minimum fifteen lawyers in Belarus, applied in pilot strategic litigation on discrimination issues;
- (3) Development of an agreed joint advocacy strategy to address deficiencies in Belarusian equality legislation and policies;
- (4) Raised awareness of equality and non-discrimination issues among Belarusian civil society and sections of the public.

C15. 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 a Jordanian organisation, Mizan, which is one of the most prominent and active human rights and legal defence NGOs in the Middle East. Mizan is the lead partner, while the role of ERT is limited to jointly drafting a study on gender equality, and advice on discrimination cases taken to courts. In February and March, ERT worked in Amman with the partner, and gave a talk to the lawyers' network of Mizan on strategic litigation. ERT also met with the Dean of the Law Faculty of the Middle East University, Professor Mohammad Alwan, who is coordinating the study on gender discrimination. In April ERT prepared detailed guidelines for the study and send them to the partner to guide their research and drafting.

Expected Outcomes and Impact

- (1) Key actors and stakeholders will agree upon, develop and publicise a draft comprehensive anti-discrimination law in line with international standards.
- (2) Improved reflection of domestic and international legal instruments in practice.
- (3) Improved public perception and attitudes towards gender equality and women's rights.

C16. Greater Protection for Stateless Persons in the UK

In March 2011, ERT launched a new advocacy project on statelessness in the UK. Its ultimate goal is to strengthen the protection of stateless persons in the UK. ERT intends to do so through targeting three key issues:

1. The indefinite immigration detention of stateless persons in the UK;
2. The lack of a statelessness determination procedure in the UK;
3. The lack of awareness and/or capacity pertaining to statelessness related issues, of key service providers in the immigration detention, asylum and refugee services and human rights sectors in the UK.

This project which will complement the previous and current work under the project *Stateless persons in Detention* will run from April 2011 to March 2012. ERT, in cooperation with Asylum Aid UK and the London Detainee Support Group, will develop and deliver training on statelessness to NGOs operating in the immigration, asylum, detention and human rights sectors in the UK. Advocacy at the European level will also be developed.

Expected Outcomes and Impact

- (1) Better awareness among UK civil society organisations of the issues surrounding statelessness and the equal rights of stateless persons;
- (2) Pressure to introduce a maximum time limit of immigration detention in the UK;

(3) Pressure to introduce a statelessness determination procedure in the UK.

D. Creating Resources on Equality

In this section, we present information on the on-going open-ended activities of ERT which are aimed at fulfilling its role of a resource centre on equality and non-discrimination for an international audience of predominantly civil society actors.

D1. Website and Virtual Library on Equality

The ERT Virtual Library on Equality currently contains approximately 800 items, including approximately 350 summaries of legal cases, over 90 annotated pieces of legislation, 33 articles, and various other items. ERT continues to work with the Public Interest Law Institute (PILI) to produce new materials through the use of interns and pro-bono lawyers.

In the report period, 15,280 people have visited the ERT website, making a total of 24,230 visits to the site, and making a total of 82,604 page views. Visitors came from 155 countries, with most visits from the UK, USA and India. 18% of visitors came directly to the site, 14% came via linked or referring sites, and 63% via search engines. 62% of users were new visitors to the site. 62% of visitors came to the website once, with 10% and 5% visiting 2 and 3 times respectively. The most popular page was the Homepage (visited 16,298 (20%) times), followed by: About, Positions and Opportunities, Staff Profiles, Declaration (visited 3033 times). In the news section of the website, 125 news pages were viewed a total of 4842 times. In the period from 8 April to 8 May 2011, 1101 people visited the website, up from 973 in the same period last year (13% increase). These people made a total of 1572 visits to the ERT up from 1238 visits in the same period last year (27% increase). During these visits a total of 4372 pages were viewed, up from 3474 in the same period last year (26% increase).

In the last year there were a total of 3152 visits to the Virtual Library, up from 2870 in the previous year (10% increase). Of these 1347 were unique page views, representing a 16% increase from the 1164 unique views in the previous year.

D2. The Equal Rights Review

In the report period, ERT has published two further issues of the biannual journal *The Equal Rights Review* (Volume Five in August 2010, and Volume Six in March 2011).

Volume Five is devoted to the application of the unified human rights framework on equality in Kenya, and contains an Editorial by Dimitrina Petrova, entitled “The Integrated Approach to Equality in Kenya”.

It includes articles by Bob Hepple: “The New Single Equality Act in Britain”, Sue Ashtiany: “The Equality Act 2010: Main Concepts”, and Muhsin Hendricks: “Islamic Texts: A Source for Acceptance of Queer Individuals into Mainstream Muslim Society”.

The Special section is devoted to equality in Kenya and contains articles by Jim Fitzgerald: “The Road to Equality? The Right to Equality in Kenya’s New Constitution”; a material on “Empowering Disadvantaged Groups in Kenya through Combating Discrimination and Promoting Equality - First

Year Project Report”, and interviews with Mumbi Ngugi of the Albinism Foundation of East Africa and David Kuria of the Gay and Lesbian Coalition of Kenya.

The Testimony section features Chinese dissident Wan Yanhai: “My Departure from China: Testimony from a Human Rights Defender”. The issue also contains a double interview “Comparative Perspectives on Equality Law – A View from the United States and the European Union: ERT talks with Catharine MacKinnon and Miguel Poiares Maduro”. Finally, the Activities section contains updates on ERT advocacy, projects and work itinerary.⁹

Starting with Volume 6, *ERR* has become a **peer reviewed journal**. The process of peer review is assisted by an Advisory Editorial Board which includes prominent scholars working on equality and human rights. A “Notes for Contributors” page has been added in Volumes Five and Six.

Volume Six of *The Equal Rights Review* is devoted to health equality and contains the following materials: an Editorial by Dimitrina Petrova: “A Right to Health Equality: What Does This Mean, Exactly?”

It contains articles by Jarlath Clifford: “The UN Disability Convention and Its Impact on European Union Law”, Olga Manole: “Discriminatory Ill-Treatment of Women in Moldova”, and Rayila: “The Pain of a Nation: The Invisibility of Uyghurs in China Proper”.

In the Special section there are articles authored by Gillian MacNaughton: “Health Care Systems and Equality Rights”, Nick O’Brien: “Law and ‘The Good Life’: Learning Disability, Equality and Healthcare in the UK”, and Jonathan Burns: “The Mental Health Gap in South Africa – A Human Rights Issue”.

The Testimony section features women activists from Sidreh - an organisation of Bedouin women from the Negev desert in Israel. The Interview section is “Health Justice, Equality and Fairness: Perspectives from Health Policy and Human Rights Law: ERT speaks with Norman Daniels and Paul Hunt”. The Activities section describes ERT advocacy, provides update on ERT projects, and on the ERT Work Itinerary.¹⁰

The ERT website now includes information regarding the purchase of hard copies of *The Equal Rights Review* for £15 per copy. ERT has explored options relating to the appointment of a subscription agent in order to maximise subscriptions.

D3. Email News Service

ERT sent 21 email news items in the period May 2010 to May 2011, down from 38 in the period May 2009 to May 2010. These have included Court Watch news (6 items) and Legislation Watch news (2 items), as well as news on ERT actions (13 items). The decrease is due to an unusually high number of new projects that have started in the report period, making it more difficult to monitor legislation and court developments related to equality. ERT currently sends electronic news to 9121 recipients held on 5 lists on its email database. ERT press statements are also available on its website.

⁹ The online version of this volume is available at http://www.equalrightstrust.org/ertdocumentbank/err_issue05.pdf.

¹⁰ The online version of this volume is available at http://www.equalrightstrust.org/ertdocumentbank/err_06.pdf.

IV. Institutional Development

A. Governance

During the report period, two new Trustees (Directors) were incorporated to the International Board of Directors, Asma Khader (Jordan) and Sonia Correa (Brazil). As of May 2011, ERT is governed by a Board which includes thirteen members: Bob Hepple (Chair), Sue Ashtiany (UK), Tapan Kumar Bose (India), Shami Chakrabarti (UK), Sonia Correa (Brazil), Asma Khader (Jordan), Claire L'Heureux-Dubé (Canada), Gay MacDougall (USA), Bob Niven (UK), Kate O'Regan (South Africa), Michael Rubenstein (UK), Ted Shaw (USA), and Sylvia Tamale (Uganda)¹¹. The Board meets annually.

Between Board meetings, the governance of ERT is delegated to a four-member Management Committee (MC). In the report period, the MC met in July 2010, October 2010, January 2011 and April 2011. At each of these meetings, the MC received and reviewed quarterly activity reports and plans, assessed the financial position, provided guidance on fundraising efforts and made decisions and recommendations on a number of specific issues related to strategies and projects, administration, funding, human resources and ad hoc matters.

B. Administration

Despite its small size, ERT has a smoothly run administration and has adopted a full set of policies which make it a model third sector organisation. It has a high standard equal opportunity and diversity policy, a personnel manual comprising a number of policies related to human resources, IT manual, office procedures manual, and a financial manual.

In August, ERT made a six-month contract with an experienced administrator and finance manager, Joe Curran, who was asked to assist the Executive Director and the Management Committee in ensuring that ERT has strong administrative and financial systems in place, complying with law and best practice. Joe Curran has taken the lead on two consecutive searches for a new Finance Manager, elaborating a rigorous selection procedure. In October 2010, he began a Business Review of ERT's systems collecting information and evaluating all areas of administration and finance. In January 2011, he presented a report to the MC highlighting areas of higher risk and recommending steps for improving the financial management of ERT.

C. Funding

At the start of the current Financial Year (1 October 2010) ERT had £94,621 accumulated net assets brought forward from the previous year. With recently received core funding and project grants, ERT's estimated secure income for the current financial year is £1,321,810 and its expected expenditure is £1,320,778 resulting in a small surplus of £1,033 for the year. Net accumulated assets carried forward to the next financial year starting on 1 October 2011 are projected to be £95,651.

Of the total costs in the current year, £379,180 relates to staff costs, up from £248,373 as at 30 September 2010. The increase is due to four new additional staff members joining ERT from March, April and May 2011.

¹¹ Biographies of the Board members are available at <http://www.equalrightstrust.org/trustees/index.htm>.

Direct Project costs (not including staff costs) make up £833,680 (63% of total year's cost).

For the next financial year starting in October 2011, ERT has to date raised £1,080,027 income for both core activities and projects and expects to spend £1,207,242 resulting in a **deficit** of **£127,215** and therefore the accumulated net assets are expected to be a **deficit £31,564**. However this deficit is expected to decrease and eventually disappear as ERT is working on other funding applications and is recruiting a fundraising consultant to explore new sources of funding.

Regarding current year spending, by 31 March 2011 (half the financial year) ERT had spent £413,306 which is only 31% of the total projected expenditure for the year of £1,320,778. This is due to most of the project activities being scheduled for the second part of the financial year. ERT expects the expenditure to go up as workshops and events as well as publications occur in the months from June to September 2011.

Funding was a matter of concern throughout the reporting period, but pressure to raise funds decreased as compared to the previous 12-month period. The main challenge for ERT is to find stable core funding from committed donors.

D. Human Resources

As of May 2011, ERT worked with ten staff members: Executive Director (Dimitrina Petrova), Legal Director (Paola Uccellari), Financial Manager (Anne Muthee), Advocacy and Communications Officer (Jim Fitzgerald), Head of Nationality and Statelessness Projects (Amal De Chickera), Legal Officer (Libby Clarke), and four assistants (Nicola Simpson, Jessica Duggan-Larkin, Natalie Brinham and Ingrid Dessauvages). ERT also relies on several consultants (Stefanie Grant, Barbara Cohen and others), unpaid interns and volunteers for a various aspects of its activities.