



# The Equal Rights Trust

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1113288.

Dimitrina Petrova  
Executive Director

2 April 2010

## **ERT Activity Report** **(October 2008 – March 2010)**

This report provides an overview of all ERT work undertaken in the 18 month period since the last Board meeting in October 2008. It is prepared as part of the documentation to be presented to the ERT Board of Trustees meeting on 23-24 April 2010, for reference, review and discussion. A Board-approved version of this report will be also publicised on the ERT website.

### **I. Purpose and General Strategy**

During the reporting period, ERT has made further progress in combating discrimination and promoting equality as a fundamental human rights and a basic principle of social justice. ERT has sought to make interventions for which it is uniquely capacitated and which complement the efforts of other actors. ERT's uniqueness is defined by its strategy of promoting equality in a unified framework expressed in the Declaration of Principles on Equality, which also allows a focus on the complex relationship between different forms of discrimination<sup>1</sup>.

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<sup>1</sup> The unified (integrated) 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 relying also on the overarching aspects of these different strands and types. The unified framework brings together: a) the types of inequalities based on different grounds, such as race, gender, 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.

ERT has sought and achieved significant impact in the following areas:

- Development and improvement of comprehensive national equality legislation and policies giving effect to the universal right to equality.
- Enforcement of existing equality law and policies.
- Accountability of States and non-State actors with a view to their obligation to promote equality and protect against discrimination.
- Empowering civil society, in particular NGOs representing victims of discrimination, in promoting equality.
- Development of the substantive and procedural aspects of the universal human right to equality and non-discrimination.
- The public understanding of equality as a right and as a value on which broader consensus is needed in present-day societies.

The impact sought in each ERT intervention is specific and measurable, and is targeting the key players who have the greatest power regarding the specific equality issue at hand. 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:

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

## **II. Achievement Highlights**

1. Through adopting a universal Declaration of Principles on Equality and accompanying documents on legal standards development, ERT has: a) given governments, legislators, policy makers, members of the judiciary and civil society a reference document expressing the current expert consensus on equality principles that should be the cornerstone of legislation; b) created an important tool of international best practice to orient the efforts of governments and those within State institutions in developing comprehensive national equality legislation and equality policies.
2. ERT has influenced legislative and policy developments in several countries, through advocacy submissions on existing or emerging legislation and briefs on legal and policy issues and court cases. All ERT interventions have pushed for positive change in a way promoting the unified perspective on equality.

3. ERT has achieved a set of positive results in its country specific projects in India and Kenya, including raising the capacity of local lawyers and civil society to combat discrimination.
4. ERT's thematic projects have produced (a) an influential policy report on health and religion with a potential for further impact on health policy; (b) a great interest and very high expectations as well as traceable change of positions of various stakeholders on some of the issues covered in the project The Detention of Stateless Persons;
5. Through its Legislation Watch and Court Watch news service, ERT has contributed to monitoring the accountability of governments and the performance of judiciaries in implementing the principles of equality.
6. The Virtual Library on Equality and The Equal Rights Review, considered in the context of the overall set of activities and in the light of ERT's approach to equality, have 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.

### **III. Advocacy**

ERT is an international advocacy organization, as well as a resource centre and a think tank. Advocacy is the main strategy through which ERT pursues its goals. In a broadest sense, all ERT work as a whole can be described as advocacy, directly or indirectly promoting the right to equality. In a narrower sense, direct advocacy is a specific strategy for pursuing ERT's mission, along with policy research, documentation, expert legal assistance to other actors (e.g. lawyers, NGOs, legislators, equality commissions, etc.), and capacity building.

In this section, we discuss advocacy in the narrower sense. We first comment on the promotion of the Declaration of Principles in Equality, which was defined as a special advocacy priority by the ERT Board in 2008. We then move on to discuss different types of direct advocacy interventions through which ERT has pursued its mission in the report period.

#### **1. Promoting the Declaration of Principles on Equality**

At its meeting on 25-26 October 2008, the ERT Board noted that the adoption of the Declaration of Principles on Equality was a great achievement and agreed that its promotion should be the main strategic priority of ERT in the following two-three years. On the basis of this decision, in December 2008 the Management Committee (MC) considered a concept for a promotion strategy for the Declaration. The strategy contained two elements: (1) an effort to secure endorsements from specific experts in the field of equality and human rights, and (2) an effort to secure support from members of the general public through a public campaign for signatures. The strategy was agreed.

## From Communicating the Declaration to Advocating Equality

The direct promotion of the Declaration through dissemination and communications was central to ERT's work in the period from October 2008 to June 2009. This reflected the need to publicise as broadly as possible a very important new document in order to establish it as a document of international best practice. As of June 2009, following an MC review and further development of the strategic concept for promoting the Declaration, ERT's focus shifted from direct to indirect promotion. While at the first stage ERT's purpose was to broadly publicise the Declaration as such, during the second stage, which continues to date, the ERT's purpose is to improve legislation, policy and practices related to equality, using the Declaration's principles as guidelines orienting advocacy efforts. Therefore, the process in the past 18 months can be described as a development from communicating the Declaration to advocating equality based on the Declaration's principles.

During either stage, however, the work of the Trust has not been limited to one of the two types of activity. In the first nine months after the adoption of the Declaration, advocacy work through specific interventions (reports, statements, legal briefs, training, etc. referring to the Declaration) was pursued in parallel with the efforts to communicate the Declaration as such to relevant target audiences. During the second stage, ERT has continued to devote a limited amount of effort to a direct promotion of the Declaration (see details below).

## Promoting the Declaration to Expert Audiences

In November 2008, ERT met with key figures and organisations to seek endorsements of the Declaration and presented it at meetings, seminars and conferences in various places including, inter alia, London, New York, Brussels and Delhi. ERT held meetings and discussions and sent written communications to a number of human rights and equality organisations, and presented the Declaration in a keynote address to a Legal Seminar for non-discrimination experts organised by the European commission in Brussels.

In December 2008, ERT submitted a legal brief to the members of the UN Committee on Economic, Social and Cultural Rights to inform the drafting of General Comment No.20 on Article 2.2 of the UN CESCR (non-discrimination). The General Comment was significantly improved through incorporating ERT amendments.

In January 2009, ERT met with the UN High Commissioner on Human Rights to discuss the Declaration and the role it might play in the work of her office. The OHCHR offered to distribute the Declaration to all treaty body members as well as other mandate holders with whom it comes in touch in Geneva; in the subsequent weeks it distributed approximately 250 copies.

In February 2009, ERT wrote to the UN Secretary-General Ban Ki-Moon, explaining how the new approach enshrined in the Declaration makes the connection between social justice and equal rights.

In April 2009, ERT attended the Durban Review Conference in Geneva and made an oral statement promoting the Declaration. As part of its advocacy at the Conference, ERT submitted a written

statement to the UN and state delegates, proposing a number of textual amendments to the Outcome Document of the Review Conference based on the Declaration.<sup>2</sup>

In April and May 2009, ERT presented the Declaration speaking at a number of events, including the UN Alliance of Civilisations gathering in Istanbul, the European Parliament's intergroup on secularism and religion in Brussels, and the Annual Conference of the European Foundation Centre (EFC) in Rome. At this last event, an interview with ERT Director presenting the Declaration was published in the EFC magazine and distributed to the more than 600 participants from donor organisations.

In May 2009, the Council of Europe Commissioner on Human Rights issued a statement praising the Declaration as the model approach to equality and human rights at the present time, when the economic downturn threatens to increase inequalities.

On 10 December 2009, International Human Rights Day, ERT invited new endorsements of the Declaration of Principles on Equality. With the renewed appeal, ERT responded to the initiative of the UN High Commissioner on Human Rights to declare discrimination as the theme of Human Rights Day 2009.

In early April 2010, an introductory Memorandum on the Declaration of Principles on Equality, drafted by ERT, 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. In late April, the Committee will consider a motion to organize 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. It is expected that ERT will be invited to present its views at a hearing. The hearing on the right to equality may lead to further initiatives, including a study commissioned by PACE to establish the current gaps and weaknesses in the legislation and policies of Council of Europe member states in the field of equality and non-discrimination, and recommendations to/by relevant Council of Europe organs.

#### Promoting the Declaration to the General Public

In November 2009, ERT launched a web-based campaign to collect signatures to the Declarations from any individuals or organisations who shared the Declaration's principles. Signing on to the Declaration was facilitated by introducing an online functionality which allowed people to sign their names, and provide information on their country, occupation or other self-description, and town where they are based. The appeal was not taken outside the ERT website, however, through other media, thus reaching out only to those people visiting the website.

In the period from November 2009 to March 2010, 924 individuals and 21 organizations had signed the Declaration. As could be expected, due to a lack of campaigning directed to the general public

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<sup>2</sup> In recognition of the important role ERT played in the preparation and at the Durban Review Conference, the Human Rights Law Review asked the ERT Executive Director to contribute an article evaluating this highly politicised development. See Petrova, D. "'Smoke and Mirrors': The Durban Review Conference and Human Rights Politics at the United Nations", *Human Rights Law Review* 10:1 (2010).

through mass media, most signatures came from experts and activists who had visited the ERT website or had been interested in the declaration through professional networks.

In June 2009 the MC, reflecting on a communication strategy memorandum prepared by the newly appointed Communication Officer (CO), and recalling the Board decision of October 2008 not to seek formal adoption of the Declaration by the UN, recommended that a focus on developing a campaign aimed at mass support of the Declaration should not be a strategic priority.<sup>3</sup> At the same time, MC encouraged the staff to investigate ways to promote the Declaration to expert audiences and civil society organisations (CSOs) and to supplement this with advocacy for legislative and policy change on the basis of the Declaration.

## 2. Direct Advocacy

ERT interventions, even where they are reactive (i.e. responding to a specific request to intervene), are guided and informed by our country strategies. 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 advocacy at a national level can be categorised into three broad types of activity: 1. Submissions to governments aimed at introducing progressive legislation on equality, and providing advice and expert guidance on how such legislation might be improved; 2. Submissions to governments expressing concern about laws or incidences which increase or perpetuate inequality. 3. Communications with state and non-state actors on existing or proposed legislation and policies.

### *Advocacy and Impact on Equality Legislation*

In mid-2009, ERT drafted an internal document, Essential Elements of Equality Law, translating the Principles on equality into an annotated checklist, to facilitate the assessment of national equality and human rights legislation in the light of the Declaration, and serve as a basis for recommendations.

In the report period, ERT sent legal briefs commenting on proposed legislation to a range of countries. In these country-specific submissions, ERT relied on the Declaration as an instrument to orient legislative and policy efforts at the national level.

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<sup>3</sup> The communication strategy memorandum assessed the campaign of the previous months, on the basis of research on other successful international mass-appeals, and testing of several media and messages. It outlined tests for a successful campaign and proposed a strategy for promotion of the Declaration, together with a set of 'key messages' and plans for delivery of the campaign. The paper gave a number of reasons why a campaign based solely on promoting the Declaration as an end in itself was unlikely to secure widespread support among a non-expert audience. The paper proposed an alternative strategy, focussed around adopting a proxy goal for the campaign, such as securing a UN Covenant or Summit, forming a broad-based NGO coalition and targeting a specific number of signatures within a set time period.

In May and July 2009, ERT sent legal briefs to **United Kingdom** legislative and government bodies, providing comments on key aspects of the Equality Bill and recommending amendments.

In June 2009, the Czech Chamber of Deputies became the last EU state to adopt comprehensive anti-discrimination law, overturning a previous Presidential veto. Their decision was influenced by a submission from ERT making specific recommendations and showing how the **Czech Republic** would be in breach of its European obligations if it failed to enact legislation.

In July 2009, the Delhi High Court in **India** relied on the Declaration in its landmark decision decriminalising homosexuality. In its judgment, the court described the Declaration as representing 'current international understanding of Principles on Equality', and cited in full the Declaration's definitions of the "right to equality", "equal treatment" and "discrimination". The Declaration had been communicated to participants in this case (both judges and counsel) by Trustee Claire L'Heureux-Dubé and by staff while on mission in India.<sup>4</sup>

Also in July 2009, ERT submitted written comments to the Minister of Justice of the Republic of **Moldova** on the Draft Law on Preventing and Combating Discrimination. In its submission ERT set out its concerns on several crucial issues that should be addressed properly. In spite of its concerns ERT commended the Draft Law for adopting a unified approach to discrimination.

In September 2009, ERT submitted an expert opinion on the proposed amendments to the State Pensions Act to **Latvia's** Saeima (Parliament). ERT argued that the proposed amendments, which aim to end discrimination against non-citizens by reducing or "leveling down" the pension entitlements were contrary to Latvia's international legal obligations, and to the object and purpose of domestic equality legislation. ERT has been informed that this intervention has played a critical role in preventing the adoption of the amendments and sending the bill back to parliamentary committees for further consideration,

In January 2010, ERT submitted an expert opinion to Mihai Ghimpu, Acting President of the Republic of **Moldova** and Chairperson of the Moldovan Commission on Constitutional Reform, arguing that Article 16 (Equality of Rights) of the Constitution of the Republic of Moldova falls short of international human rights standards. In its letter, ERT also made recommendations for amendments which would better reflect the Republic of Moldova's commitment to human rights. In February, the OSCE contacted ERT with a request to cooperate with its mission aimed at strengthening Moldova's constitutional and statutory provisions on equality.<sup>5</sup>

Also in January 2010, following a week-long trip to Nairobi, ERT, together with the Kenyan Human Rights Commission (KHRC) and the Federation of Women Lawyers Kenya (FIDA), issued a joint communiqué calling on **Kenya's** parliamentarians to retain the strong equality provisions in the draft

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<sup>4</sup> ERT work in India has benefitted from the fact that we have a separate capacity building country project there entitled *Promoting Better Implementation of Equality and Non-discrimination Law in India*, and that India is one of the focus countries in the thematic project *Law Enforcement Discrimination and Death in Custody*.

<sup>5</sup> ERT will be able to create a synergy of impact in Moldova also through being the partner of a EU-funded country project led by the Moldova-based organisation PROMOLEX, which starts in late April 2010.

Constitution amid fears that the Parliamentary Select Committee (PSC) appointed to resolve controversial issues in the draft Constitution might remove or amend key equality provisions in the search for compromise. ERT's involvement in Kenya has become very significant as a result of excellent interim results from the current DfID-funded project *Empowering Disadvantaged Groups through Combating Discrimination and Promoting Equality*.<sup>6</sup>

In February 2010, the President of **Albania** signed Law No. 10 221 "On Protection from Discrimination" adopted by the Albanian parliament earlier that month. The entry into force of the law represents a significant victory for Albanian civil society organisations who drafted the original bill, following advice and guidance from ERT. The draft submitted by civil society was adopted by the parliament with only minor amendments and represents a significant step forward for the protection of equality and non-discrimination in Albania.

#### *Advocacy and Impact Regarding Issues of Crisis or Concern*

ERT also prepared and sent advocacy submissions to authorities on particular issues. As a rule, similar to the preceding category, these submissions are not short statements expressing concern in general human rights terms. Impact is sought through a detailed legal analysis of domestic and international applicable law, ranging in length between 5 and 30 pages. Highlights include:

In January 2009, ERT wrote to the Thai Prime Minister, expressing grave concern over the forced expulsion of stateless Rohingya from **Thailand**.

In June 2009, ERT wrote to President Rajapaksa of **Sri Lanka** urging him to put the universal right to equality at the heart of his efforts to develop a peaceful solution to the problems faced by the country, following the cessation of hostilities.

In September 2009, ERT wrote a joint letter with Equality Now to the **United Kingdom** Foreign Secretary and Minister for Equality urging them to ensure that the UK delegation to the UN Human Rights Council did not oppose a resolution to introduce a special mechanism looking at equality before the law. As a result, the UK changed its position, which had been to oppose the moves.<sup>7</sup>

Also in September 2009, ERT wrote to the Speaker of the **Sudanese Parliament** urging the repeal of Article 152 of the 1991 Criminal Act. The letter followed the imprisonment and subsequent release of Sudanese journalist Lubna Hussein for breaching Article 152 by wearing trousers. ERT expressed concern about the discriminatory application of Article 152, which has been used to target women and non-Muslims, and has disproportionately affected both categories of persons.

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<sup>6</sup> Due to a current possibility to win grants from two further donors for work in Kenya, ERT hopes to achieve better overall impact through synergies between current and future work. The results from both pending applications will be announced in late July 2010.

<sup>7</sup> Unfortunately the change of UK position was not sufficient to achieve a vote for a special mechanism in the Human Rights Council. In response to expected opposition from some HRC members to the establishment of a special mechanism, the Council opted instead to conduct a thematic study on discrimination against women.



In October 2009, ERT wrote to the Speaker of the Parliament of **Mali** urging him to ensure that the draft Persons and Family Code is not regressively amended. ERT's submission expressed concern that progressive articles will be amended or removed in response to hostile pressure over the enactment of the Code. However, ERT also identified three articles in the Code which needed to be amended before the Code is adopted to avoid putting Mali in breach of international obligations prohibiting discrimination.

In November 2009, ERT wrote to the **Commonwealth** Secretary General, Kamallesh Sharma, calling on the Heads of Government to condemn an Anti-Homosexuality Bill recently introduced in the Parliament of Uganda and to take urgent action to repeal existing homophobic laws across the Commonwealth. The letter was sent in advance of the Commonwealth Heads of Government meeting later that week.

On 10 December 2009, Human Rights Day, ERT issued a coordinated appeal, addressing specific recommendations on the rights to non-discrimination and equality to the governments of nine countries on which it had focused its work over the course of the year: Latvia, Malaysia, Mali, Moldova, Sudan, Thailand, Uganda, UK and the USA. The submissions to the governments of Malaysia and USA urged them to address discrimination concerns which arise from the detention of stateless persons in their countries. (Please see details below.)

In December 2009, ERT submitted a legal brief to the President and parliament of **Uganda**, outlining how adoption of the Anti-Homosexuality Bill (currently being debated in the Ugandan Parliament) would breach both Uganda's Constitution and its international treaty obligations. The 23-page submission, which was prepared on the basis of advice and developments updates from ERT Trustee Sylvia Tamale, argued that protection from discrimination provided by the Constitution of Uganda includes protection on grounds of sexual orientation and gender identity. It further argues that the Bill does not comply with the Constitution's own provisions for restricting fundamental rights. In the second part of the submission, ERT turns to questions of compliance with international law from the point of view of equality and non-discrimination.

On 5 January 2010, ERT issued its report, *Trapped in a Cycle of Flight: Stateless Rohingya in Malaysia*, and called on the government of **Malaysia** to grant legal residency to the estimated 30,000 stateless Rohingya refugees currently living in the country.<sup>8</sup> The report, based on original evidence collected in interviews with victims and witnesses, praised the government for the recent steps it has taken to improve the immigration regime but urged it to go further and reverse the current policy which treats the Rohingya solely as illegal migrants and not as possible refugees.

On 20 January 2010, ERT issued an evidence-based report entitled *From Mariel Cubans to Guantanamo Detainees: Stateless Persons Detained under U.S. Authority*.<sup>9</sup> It called on **United States** President Barack Obama to release 103 potentially stateless detainees who had been cleared for release from

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<sup>8</sup> The report is available at <http://www.equalrightstrust.org/ertdocumentbank/ERTMalaysiaReportFinal.pdf>

<sup>9</sup> The report is available at [http://www.equalrightstrust.org/ertdocumentbank/Statelessness\\_in\\_USA\\_17\\_Jan.pdf](http://www.equalrightstrust.org/ertdocumentbank/Statelessness_in_USA_17_Jan.pdf)

Guantanamo Bay, but remained in detention solely because it was not possible to resettle them. The report contained a legal analysis of the issue of detention of stateless persons in the USA.

#### **IV. Capacity Building Projects**

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

In May 2009, ERT started work on a new project - *Promoting Better Implementation of Equality and Non-discrimination Law in India*. The project is being delivered in partnership with the Human Rights Law Network (India) with the objective of developing the capacity of Indian NGOs and lawyers 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 and to deliver two training sessions for lawyers and activists on the same subject.

##### *Handbook on equality and non-discrimination law in India*

Over the course of the reporting period, first draft sections for the handbook were produced by HRLN and reviewed by ERT staff. This included chapters on gender discrimination, disability discrimination and sexual orientation discrimination. Chapters on race discrimination, religious discrimination, caste discrimination and age discrimination are currently being drafted by HRLN consultants. Once ERT and HRLN staff have received and edited this and other chapters, the handbook will be sent to editorial and proof reading experts and for validation among independent human rights experts for review. The final handbook is expected in March 2011.

##### *Training session: 12-13 December 2009*

A training workshop under this project was held in Mumbai on 12 – 13 December. The workshop trained 38 participants from Assam, Bangalore, Delhi, Goa, Kerala, Kolkata, Mumbai, Tamil Nadu, Andhra Pradesh and other locations in India.

The training focused on five key areas of equality and discrimination law (discrimination concepts, gender, disability, sexual orientation and enforcement) and contained interactive presentations, question and answer sessions and case study exercises. International experts were paired with Indian experts to deliver training on Indian law and jurisprudence from an international and comparative perspective.

Each participant received a workshop resource pack which included presentations and papers produced by each trainer, additional reading materials and a further reading list on each topic.

Feedback from both trainers and participants indicate that the workshop was well run and engaging and that the subject matter was relevant and necessary.<sup>10</sup>

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

In July 2009, ERT started work on the project Empowering Disadvantaged Groups through Combating Discrimination and Promoting Equality. The purpose of the project is to enable Kenyan civil society organisations (CSOs) 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. ERT has overall responsibility for the project's implementation.

*Baseline Study and Review of Laws*

Initial meetings between ERT and its partner organizations took place in September 2009 in Kenya. Over the course of November and December 2009, FIDA, guided by ERT, completed a baseline survey on civil society awareness and capacity to promote anti-discrimination law and produced a baseline report. The report provided information on the training needs of civil society organisations (CSOs) and provided an overview of the position of the project's other stakeholders – media, government, parliamentarians and quasi-governmental bodies – in respect of legal reform on equality.

Due to staffing shortages, the second project partner (KHRC) was unable to complete a planned report containing a review of Kenyan laws related to discrimination to the agreed timetable. With additional work from ERT staff, a draft report was produced and finalised by a KHRC-appointed consultant in January 2010.

*Roundtable: Legislative Reform on Equality – Needs, Priorities and Opportunities*

On 25-26 January 2010, FIDA, KHRC and ERT convened a roundtable of key stakeholders in Nairobi to discuss the need and scope for legislative reform on equality in Kenya. The roundtable was attended by over 30 people from 15 different organisations.

The roundtable was highly successful, with participants agreeing to: i) issue a statement calling for the strong equality provisions in the current draft Constitution to be retained; and ii) join a coalition to develop and advocate for comprehensive anti-discrimination legislation. Participants agreed to participate in 5 further meetings looking at specific policy issues, and to support the work of a 6-member working group of experts, which was scheduled to visit the UK in March and work on drafting a comprehensive anti-discrimination law over the course of the project's second year. The meeting was particularly successful in forging links between hitherto disparate organizations, bringing

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<sup>10</sup> For more information on the Mumbai workshop, see Workshop Report published in *The Equal Rights Review*, vol. 4 and available at: <http://www.equalrightstrust.org/ertdocumentbank/workshop.pdf>

together LGBTI groups, such as *Minority Women in Action* and others forming *The Gay and Lesbian Coalition of Kenya (GALCK)* with more established NGOs like FIDA.

In February 2010, ERT's local partner organizations pursued stronger links with the Kenyan Parliamentary Equal Opportunities Committee, successfully engaging them in the effort to develop and advocate for comprehensive anti-discrimination legislation. It is expected that the two partners will also meet with the Kenya Law Reform Commission, another key stakeholder, in the near future, in order to secure their support for the advocacy plans.

#### *Training: Non-discrimination Law and Concepts*

On 28-29 January 2010, ERT assisted by its partners delivered training to staff from over 20 different Kenyan NGOs on how to apply non-discrimination law and concepts in their advocacy and awareness raising activities. The two day training, delivered by Barbara Cohen and Dimitrina Petrova, together with a Kenyan consultant, Jaqueline Mogeni, focussed on equipping participants with the tools required to use the law and concepts in their day to day activities. The feedback received from participants from evaluation forms was overwhelmingly positive. This feedback was used to hone the training programme for the second and third workshops planned for March 2010.

Two more training events were held in Kisumu (11-12 March) and Mombassa (15-16 March). The training followed the same programme as that delivered in Nairobi, customised for the local context. It was led by Barbara Cohen and Kenyan consultant Jaqueline Mogeni. The training was well received and was attended by a range of interest groups.

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

In March 2010, ERT began work on an 18-month project in Malaysia, entitled *Empowering Civil Society to Combat Discrimination through Collective Advocacy and Litigation*. 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. ERT has overall responsibility for the implementation of the project and its local partner is the Kuala Lumpur-based NGO Tenaganita.

#### *Other Country Specific Projects*

ERT is a partner to two country-specific projects which are starting in April 2010. The first is in the **Solomon Islands** and is entitled *Empowering Disadvantaged Groups through Human Rights and Equality Training*. The main implementer is the Secretariat of the Pacific Community based in Honiara. The project will last for 18 months. ERT's role in this project is to assist with equality law training of local activists.

In early April 2010, a project conducted by the Chishineu-based organisation PROMOLEX in partnership with ERT has been launched in **Moldova**. Its title is *Strengthening Legal Protection from and Raising Awareness of Discriminatory Ill-Treatment in Republic of Moldova, Including Transnistria*. ERT will be responsible for certain aspects of the projects building the capacity of local stakeholders on equality law issues. The project will run for 18 months.

In December 2009, ERT was confirmed as the winner of a grant provided under a European Commission competition for work in **Belarus** on non-discrimination and equality. However, the project has not yet been launched, as the responsible European Delegation has not yet provided a contract. Signing of the contract is likely to happen in May or June 2010.

## V. Thematic Projects

### *The State, Religion and Healthcare in the European Union: Policies and Trends*

This project was launched in June 2008 and began in earnest with a roundtable discussion in London on 17 September 2008. The roundtable examined the thematic field from the angle of religious diversity in general healthcare; sexual and reproductive healthcare; and mental healthcare. ERT also undertook desk research and collected information through a questionnaire sent to the Departments of Health in all European Union member states. Between September 2008 and July 2009, ERT staff (Dimitrina Petrova and Jarlath Clifford) worked to finalise a comprehensive policy report commissioned by the Religion and Democracy component of the Network of European Foundations. The final report was submitted in July 2009.

In September 2009, the Network of European Foundations published the finalised policy study co-authored by Dimitrina Petrova and Jarlath Clifford, under the title "Religion and Health in the European Union: Policy Issues and Trends". The study covers 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.<sup>11</sup>

Presentations of the report have been made at several conferences and similar events, including at the UN Alliance of Civilisations, and at a hearing of the European Parliament grouping on religion and secularism. The study has been met with great interest among health policy makers and discrimination lawyers. Articles based on the report have been invited, written and published in the UK in the *Bulletin of the Discrimination Lawyers Association* and *Practical Patient Care*.

### *Stateless Persons in Detention*

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<sup>11</sup> <http://www.equalrightstrust.org/view-subdocument/index.htm?id=624>

The amount of work carried out under the *Stateless Persons in Detention* project greatly exceeded initial plans. Local level documentation was carried out in a larger number of countries as compared to the initial plan<sup>12</sup>, and resulted in interim publications and awareness raising activities. ERT publicised working papers, advocacy letters and two separate reports based on first hand field research, on the issue of stateless Rohingya in Malaysia<sup>13</sup> and on stateless persons in detention in the USA.<sup>14</sup>

The final report proved more difficult and with more significant implications than initially envisaged, but has been produced and is in its final editorial stages of completion. Due to a number of necessary delays at the drafting and review stages, the publication of the final report has been postponed to the end of April 2010. (Originally it was expected in December 2009.)

In October 2008, ERT issued two discussion papers to guide work on this project. The first – a legal mapping paper – was drafted by ERT consultant Amal de Chickera, and outlined the legal and conceptual framework for work on the project. The second – a preliminary research paper, drafted by Katherine Perks, highlighted cases of stateless persons in detention, presented trends identified, put forward key research questions for country work and outlined the factual issues and protection gaps to be addressed through the project.

Also in October ERT published a call for evidence, which generated a great deal of correspondence and case material relevant to the project. On 29 October 2008, ERT convened a meeting of fifteen experts specialising in equality law, human rights law, and refugee law to develop the legal framework and strategic direction for the project.

#### *Documentation*

In November 2008, the team began the field research phase of the project, during which consultants focussed on documenting individual cases of arbitrary detention and analysing the factual and legal situation in a number of countries and regions where stateless persons are at risk of detention. A summary of the work in these countries is provided below:

*United Kingdom:* ERT undertook a review of relevant UK legislation, policy and jurisprudence; established contact with relevant UK experts and support/activist groups working with detainees; established contact with key government bodies, including submission of a series of formal questions to the UK Borders Agency; established contact with a number of stateless detainees; and conducted interviews with stateless detainees.

*USA, Central & Latin America:* In February 2009, a consultant (David Baluarte) was commissioned to conduct research in the USA, selected countries in Latin America and Central America. He submitted a

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<sup>12</sup> These included Australia, Bangladesh, Egypt, Hungary, Kenya, Malaysia, Myanmar, Thailand, UK and USA.

<sup>13</sup> *Trapped in a Cycle of Flight: Stateless Rohingya in Malaysia*. Available online, see above, note 8.

<sup>14</sup> *From Mariel Cubans to Guantanamo Detainees: Stateless Persons Detained under U.S. Authority*. Available online, see above, note 9.

detailed research memorandum in May 2009. It provided an analysis of the detention of stateless persons in the USA, focusing on the implementation of the landmark Supreme Court decision in the Zadvydas case and the issue of statelessness in the context of Guantanamo Bay. The memo also included a shorter section on the detention of stateless persons in Central and Latin America.

*Stateless Rohingya (South and South East Asia):* In March 2009, Chris Lewa was contracted to conduct research into Rohingya persons in South and Southeast Asia. Beginning in May 2009, she has carried out field research in Myanmar, Thailand, Malaysia and Bangladesh and submitted research memos on the same.

*Kenya:* In March 2009, Laban Osoro was contracted to conduct research in Kenya. The consultant has conducted interviews with stateless persons in immigration detention in Nairobi and has also travelled to the northern and coastal areas of Kenya to profile and interview stateless populations in these regions. He submitted his research in September 2009.

*Egypt:* In May 2009, ERT commissioned two researchers to carry out research on stateless persons in detention in the country. They submitted their research in September 2009.

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

*Stateless Palestinians:* In June 2009, ERT agreed terms with the UCL Student Human Rights Programme to conduct research into the different contexts of Palestinian statelessness. They submitted their research in October 2009.

#### *Interim Report on Rohingya in Malaysia*

In early January 2010, ERT published a detailed report on practices of detention and deportation of stateless Rohingya in Malaysia. The 40 page report<sup>15</sup>, *Trapped in a Cycle of Flight: Stateless Rohingya in Malaysia*, reveals hidden practices of human trafficking, extortion and physical abuse suffered by the Rohingya. The report was sent to the Malaysian government, circulated to a number of stakeholders in the South East Asia region and received coverage in both print and online media in the region. It will be used as a platform for future advocacy efforts directed at both the Malaysian government and the ASEAN member states.

#### *Interim Report on Stateless Persons Detained under U.S. Authority*

On 20 January 2010, ERT published a detailed report on the immigration and security detention of stateless persons in the USA. The 60 page report<sup>16</sup>, *From Mariel Cubans to Guantanamo Detainees: Stateless Persons Detained under U.S. Authority*, articulates new thinking by recognising statelessness

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<sup>15</sup> See above, note 8.

<sup>16</sup> See above, note 9.

as the primary barrier to releasing cleared security detainees and provides a comprehensive investigation into the issue of stateless persons in detention in the USA. It also analyses and critiques the US immigration detention regime.

The report was published to coincide with the anniversary of President Barack Obama's pledge to close the Guantanamo Bay facility and release 103 potentially stateless detainees, but despite efforts to promote the report's unique perspective on this problem through the media, it was not possible to secure immediate media coverage. However, the report may have important influence in the longer term on shaping the positions of U.S. organisations on the detention of stateless persons.

#### *Final Report*

The final report has been drafted and subjected to a rigorous internal review process. It has then been reviewed by a panel of external experts in the fields of human rights, equality, refugee law and statelessness, including Guy Goodwin-Gill, Colm O'Connell and experts from the UNHCR.

The report, whose provisional title is *International Protection, Detention and Discrimination of Stateless Persons*, clearly presents statelessness as an issue that should be of central concern in international human rights. The over 60,000-word report draws from the project's extensive country specific research and legal research and makes several important findings and recommendations.

In February 2010, an application to obtain further funding to carry out advocacy work based on the research findings of the project and the report's recommendations was submitted to the Oak Foundation.

#### *Law Enforcement Discrimination and Death in Custody*

This project was launched in December 2007 with three main 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 four countries: Brazil, India, Nigeria and Russia. Research plans were developed for each country that would enable the team to identify cases and patterns of law enforcement discrimination that impact on custodial deaths. Work under this project had to be re-structured significantly in early 2009, due to the departure of Ivan Fiser who was in charge of this project and the impossibility to replace him with another full time senior project manager.

#### *Country research*



Between December 2008 and January 2009 ERT, country-based consultants undertook field research in Brazil, India and Nigeria. Unfortunately, despite significant efforts by the project team, ERT was unable to find a properly qualified Russian consultant who would be in the position to obtain the required access to custodial facilities, within the time and financial constraints of the project. On this basis, it was agreed that Russia could not be one of the project's focus countries. It was replaced with the USA.

*Brazil:* A research consultant based in São Paulo was contracted in December 2008 to conduct six-month field research in Brazil. The researcher focussed on two states: Rio de Janeiro and Sao Paulo. Over the course of the first months the researcher interviewed activists and spoke with potential witnesses in São Paulo; followed up on formal requests for information on custodial deaths with the relevant authorities; continued to gather secondary research material including information from newspapers and from NGOs; and established contacts with key persons at the Catholic Church. Unfortunately, due to unforeseen circumstances, the researcher failed to deliver satisfactory work to ERT despite detailed and persistent guidance.

*India:* Research in India focuses on two states: Maharashtra and Karnataka. Since March 2009, the country-based consultant has: submitted Right to Information (RTI) requests for information and 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; submitted a written review of available National Human Rights Commission annual reports with specific reference to custodial deaths; conducted interviews of families of victims in the two states and made plans to interview lawyers and activists who work with these victims in Maharashtra and Karnataka. A second draft report was received at the beginning of October which had significant gaps in information and analysis. The project manager recommended that further work was necessary in order to be able to have a sufficient focus on India in the final report.

*Nigeria:* Research in Nigeria focussed on four states: Abuja Federal Territory, Enugu, Kano and Lagos. Over the course of six months the Nigeria team submitted a written overview and analysis of pre-existing literature and information published by local and national NGOs on custodial deaths in Nigeria; collected oral testimonies from families of victims; visited police stations and prisons in the four states, and spoke with the officers in charge (but were not able to speak with detainees); and submitted written requests to federal prison and police authorities for information on custodial deaths in the four states under review. The researcher submitted a first draft country report to ERT in July 2009. ERT made extensive comments and requests for more information. The researcher submitted a much improved second draft in mid-August 2009.

*USA:* A U.S. consultant started work on the project in April 2009, focusing on California and Texas. The consultant submitted a draft chapter on custodial deaths in immigration detention in late May 2009. The content and quality of the draft was to a high standard. The consultant subsequently delivered further sections of her country research which have all been of a high standard and which have been reviewed and revised by the ERT team.

*Developing Final Report*

In May 2009, a senior Project leader, Elizabeth Mottershaw, was hired to guide the remaining work on the project. She was contracted to: coordinate the collection of first-hand documentation from the focus countries; analyse desk research undertaken so far; research, analyse and evaluate the international, regional and selected national legal systems from the point of view of the nexus between discrimination and death in custody; draft a report on the theme of the project; then finalise the draft as required in response to feedback from ERT's Executive Director; and draft recommendations related to investigating custodial deaths and preventive measures.

The final draft report was submitted by the Project leader at the end of December 2009 and was reviewed internally and by a number of external experts over the course of January 2010. Unfortunately, the draft report was weaker than expected and it is clear that the final report is some way from the standard required for publication.

ERT currently lacks the capacity at a senior professional level to bring this project to completion without the direct involvement of the Executive Director. Given the pressures on her time, it is expected that further work on finalising this report will not be undertaken until June 2010 at the earliest.

#### *The Unified Perspective on Equality and LGBT Rights*

In September 2009, ERT started work on a project funded by the Arcus Foundation on a study to show how the unified approach to equality benefits LGBT rights, with a focus on countries with Islam. The purpose of the study is to map out the different existing and possible advocacy approaches to advancing LGBT rights, on the basis of the integrated framework of equality. The study has to explore a) how the unified perspective on equality can be helpful for LGBT struggles; b) how these advantages are relevant to countries with Islam and African countries with cultural blockages to liberal rights.

Activity during the reporting period focussed on desk research for the report and contracting an expert consultant to prepare a paper on the position of Islamic law on homosexuality. A paper on Islam and homosexuality was prepared by Imam Mushin Hendriks and submitted to ERT in November 2009. Work on drafting the final paper is underway and it is envisaged that it will be ready in early April.

### **VI. Activities Related to Creating Resources on Equality**

In this section, we present information on the ongoing open-ended core 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.

#### *Virtual Library and Email News Service*

Since October 2008, ERT has published 47 email news releases. The releases range in subject from those reporting developments in the field of equality, through our LegislationWatch and CourtWatch, to those reporting ERT's core advocacy work, which is described above.

The ERT Virtual Library on Equality currently contains approximately 700 items, including approximately 324 summaries of legal cases, 81 annotated pieces of legislation, 25 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. ERT has recruited two interns to produce new material and to work through the back-log of materials that have yet to be uploaded.

### Equal Rights Review

In the report period, ERT has published three further issues of the biannual journal *The Equal Rights Review* (December 2008, July 2009 and December 2009). Work on commissioning, drafting and editing the fifth issue, due for publication in June-July 2010, is currently underway.

## **VII. Other Work**

In addition to activities falling under specific projects or areas of work described above, ERT staff occasionally attend meetings, conferences and similar events, publish articles and provide comments to the media, on issues of importance to ERT. A list of some of these activities is provided below:

- **November 25, 2008:** Presented in a keynote speech the Declaration of Principles on Equality at a Legal Seminar on the implementation of EU law on equal opportunities and anti-discrimination: How to address discrimination across all grounds and share experience between different grounds of discrimination, organised by The European Commission (DG Employment, Social Affairs and Equal Opportunities), in Brussels.
- **December 10, 2008:** Presented the Declaration of Principles on Equality to the UK Equality and Diversity Forum, in London.
- **January 9, 2009:** Met with the UN High Commissioner of Human Rights and members of her office to discuss cooperation on promoting the Declaration of Principles on Equality, in Geneva.
- **January 9 - 11, 2009:** Participated in Oxford Refugee Studies Centre Short Course on Statelessness, including conducting a session on *De Facto Statelessness* and contributing course material.
- **January 25, 2009:** Published article "Which Country is Theirs Anyway?" on the stateless detainees at Guantanamo, *The Guardian*, UK.
- **January 29, 2009:** Met with representatives of the UK Foreign and Commonwealth Office's Iran Co-ordination Group to discuss the human rights situation in Iran and possible involvement of ERT in FCO-funded projects.
- **February 6, 2009:** Published article "Thailand must stop dumping stateless people at sea", *The Daily Telegraph*, UK.
- **February 22 - 23, 2009:** Participated in consultation meetings organised by Article XIX, resulting in the adoption of the Camden Principles on Freedom of Expression and Equality, in London.

- **March 2, 2009:** Met with representatives of the UK Charity Commission to discuss the implications of the equality principles for establishing equality and diversity best practices and regulating the charity sector in the UK, in London.
- **March 14, 2009:** Participated as keynote speaker in the Tenth Annual Student Conference on Human Rights, spoke on “The Defamation of Religion”, in Nottingham, UK.
- **March 19, 2009:** Met with the Human Rights Initiative of the Board of Deputies of the British Jews and other organisations, to promote the Declaration of Principles on Equality and coordinate strategies for NGO intervention at the Durban Review Conference (Geneva), in London.
- **March 25, 2009:** Met with a representative of the UK Equality and Human Rights Commission to discuss the inclusion of equality aspects in the UK migration and border policies, in London.
- **March 31, 2009:** Participated in Equality and Diversity Forum Roundtable discussion on “Refugees, Migrants and the Equality Agenda”.
- **April 2009:** Published article “The Legal Limbo of Detention” in *Forced Migration Review*, Issue 32.
- **April 6 - 8, 2009:** Participated in the UN Alliance of Civilizations Second World Forum, to promote the *Declaration of Principles on Equality* and present the results of the ERT study on religion and healthcare, in Istanbul.
- **April 14, 2009:** Made a presentation at the Religion and Democracy grouping of the European parliament on the ERT study on religion and healthcare, in Brussels.
- **April 20-24, 2009:** Participated in the UN Durban Review Conference, made an oral statement and submitted a written statement referring to the Declaration of Principles on Equality, in Geneva.
- **May 4, 2009:** Met the Bulgarian Helsinki Committee to discuss organising a national campaign in Bulgaria to promote the Declaration of Principles on Equality, Sofia.
- **May 14 - 16, 2009:** Participated in conference “Fighting Poverty, Creating Opportunities”, organised by the European Foundation Centre, and moderated one of its sessions, in Rome.
- **May 19, 2009:** Participated in seminar “The UK Bill of Rights and Social and Economic Rights”, organised by the British Institute of Human Rights, in London.
- **June 5, 2009:** Submitted a consultation response to the UK Government Equalities Office’s, “Equality Bill: Assessing the impact of a multiple discrimination provision”, discussion document.
- **July 2, 2009:** Delivered workshop at the “Community Cohesion and Equalities” Lambeth EMAT Conference, London.
- **September 22 - 24, 2009:** Presented a paper on protecting stateless persons in detention at an international conference, “Protecting people in conflict and crisis: responding to the challenges of a changing world”, at University of Oxford’s Refugee Studies Centre.
- **October 15, 2009:** Made a keynote presentation at Roundtable “Multiple Discrimination” organised by Minority Rights Group, on “The Legal Aspects of Multiple Discrimination”, in London.
- **October 20, 2009:** Published article “Good Practices in Implementing Equality Law in the United Kingdom”, in Bulgarian Helsinki Committee bulletin and online edition.

- **November 10, 2009:** Made a presentation at a conference “Enhancing Participation among Roma”, organised by European Roma Information Office, in Brussels.
- **November 19 – 20, 2009:** Participated in Open Society Justice Initiative conference, “States obligations to the stateless under international law”, London.
- **November 21, 2009:** Published article “Religion and Health Policies in the UK and the European Union Member States”, *Discrimination Law Association Briefings*, Vol. 38, November 2009.
- **November 25, 2009:** Participated in Consultation meeting “The Fundamental Rights of Persons with Mental Health Problems and Persons with Intellectual Disabilities” organised by Fundamental Rights Agency, in Vienna.
- **December 10 – 11, 2009:** Participated in “Fundamental Rights Conference 2009: Making Rights a Reality for All”, organised by the European Agency for Fundamental Rights, in Stockholm.
- **December 19, 2009:** Published article “From Guantánamo to where?” on the stateless detainees in Guantánamo, *The Guardian*, UK.
- **February 1-2, 2010:** Served as expert on defining the mandate of the newly appointed UN Independent Expert on Cultural Rights and presented a paper “Diverse Cultural Identities: the Challenges of Integrating Cultural Rights in Policies and Practices”, in Geneva.
- **March 4, 2010:** Participated in Roundtable meeting on Gender Mainstreaming, Sexual Orientation and Gender Identity, organised by ILGA-Europe, in Brussels.
- **March 13, 2010:** Presented a lecture on “Islam, Equality and Human Rights: the Application of Equality Principles in Muslim Countries” at a Conference “Islam and Human Rights” organised by Al-Mahdi Institute, in Birmingham.

## **VIII. Administration, Funding and Institutional Development**

### *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 financial controls manual. In April 2009, ERT received a visit from the UK DFID to assess the organisation’s capacity to carry out projects which involve working with and monitoring financial management of sub-grants made to overseas organisations. The evaluation consisted of a thorough checking of 16 areas within administrative and financial management, each containing approximately 10 issues. ERT received a positive assessment.

In October 2009, ERT moved to new offices which are more affordable and better in many ways than the previous offices – slightly closer to central London and considerably larger. Unfortunately, this has been a temporary and limited term solution, with a contract terminating on 20 June 2010. We have found suitable new office space, a few minutes’ walk from the present office, and will be relocating in June.

### *Funding*

Regarding the funding position of the Trust, please refer to the set of financial documents prepared for the Board meeting, including income and expenditure report, budget and cash-flow report.

Funding was a matter of concern throughout the reporting period, and in particular since mid-2009. We have explored opportunities for core funding from a number of donors, including Wellspring Advisors, Ford Foundation, Oak Foundation and the Sigrid Rausing Trust. We have submitted applications to a range of funders, including UK Department for International Development, the European Commission, Swedish International Development Organisation, Comic Relief and others for funding for specific projects.

A more detailed presentation of ERT's fundraising efforts and strategy is provided in two separate documents: Memorandum on Funding and Fundraising Tables.

### *Human Resources*

At present, ERT works with four full time staff members: Executive Director, Financial and Administration Officer, Legal Officer and Advocacy and Communications Officer. ERT also relies on several paid consultants, unpaid interns and volunteers for a substantial part of its activities.

As discussed above, ERT recruited a Communications Officer – Jim Fitzgerald – in May 2009. The person specification was for an individual with the skills and experience to develop and deliver a public-awareness campaign to secure support for the Declaration of Principles on Equality from members of the public. In response to the shift in the focus of efforts to promote the Declaration, his role has been modified to include advocacy as well as project management of one of the Trust's capacity-building projects, in Kenya.

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## **APPENDIX TO ACTIVITY REPORT**

### **THE IMPACT OF ERT WORK**

In this Appendix, we present a summary list specifying the impact achieved to date by The Equal Rights Trust. The substantive information contained herein overlaps significantly with the report. However, the work of the Trust is presented below in terms of its impact – the change achieved and/or sought in the real world in the direction of the Trust's mission to combat discrimination and promote equality.

#### **I. Impact on Governments**

- **General:** (1) Through adopting a universal **Declaration of Principles on Equality** and accompanying documents on legal standards development, ERT has: a) given governments a reference document expressing the current expert consensus on equality principles that

should be the cornerstone of legislation; b) created an important tool of international best practice to orient the efforts of governments and those within State institutions in developing comprehensive national equality legislation and equality policies.(2) Through its **Legislation Watch** news service, ERT has contributed to monitoring the accountability of governments in implementing the principles of equality.(3) Through its project “Detention of Stateless Persons”, ERT has influenced the outlook and understanding of key governments on the issue of statelessness and on the detention of stateless persons.

- **Member States of the European Union:** (1) Impact on independent national human rights and equality bodies in Europe, through training activities.(2) Impact on healthcare legislation and policies on issues on which religious 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) - through its project "Religion and Healthcare in the European Union: Policy Issues and Trends". (2008-2009)
- **Czech Republic** – impact on the scope and content of national anti-discrimination legislation adopted in 2009.
- **Kenya** - impact on the constitutional reform process, in respect of the need for legislators to include strengthened equality provisions in the new Constitution. (2009-2010)
- **Malaysia** – (1) release of opponents protesting ethnically discriminatory policies (2007-2008). (2) raised awareness and beginning of policy change related to stateless Rohingya immigrants from Myanmar, building on recent positive developments by granting residency to Rohingya currently in the country. (2009-2010)
- **Mali** - impact on the stakeholders in adopting a new Family Law. (2009)
- **Moldova** - impact on the scope and content of national anti-discrimination legislation (2009); impact on the constitutional reform process initiated in December 2009, in respect to the need to expand the scope and content of the constitutional right to equality.(2009-2010)
- **Serbia** – impact on the scope and content of national anti-discrimination legislation adopted in 2008.
- **Sudan** - impact on some stakeholders' view on needs for change in criminal legislation, particularly on decriminalising certain offences such as indecency which are used in a discriminatory manner. (2009)
- **Slovenia** – impact on national policy regarding the so called “erased” persons. (2007-2009)

- **Thailand** – impact on policy regarding stateless Rohingya from Myanmar (investigation on the abuses of Rohingya by Thai military opened in 2009).
- **Uganda** – impact on MPs and other governmental stakeholders debating the Anti-Homosexuality Bill which was presented to parliament on 14 October 2009.(2009-2010)
- **United Kingdom** – impact on policy decisions regarding UK participation in the Durban Review Conference in April 2009; impact on shaping certain aspects of the Equality Bill; impact on leaders of UK political parties in respect of their commitment to ensure that the Equality Bill currently before parliament is adopted before the next General Election. (2009-2010).

## II. Impact on IGOs

- Influencing the outlook of UNHCR and other UN bodies and mandate-holders on the issue of statelessness, in particular the definition of de facto statelessness and issues of detention of stateless persons. Through its project on statelessness, ERT has contributed to filling a documentation gap and analyzing the law related to the protection of statelessness.
- Impact on the UN anti-racism agenda: the 2007 UN Expert study on complementary standards on non-discrimination, which reflected the main aspects of the ERT approach to non-discrimination, had an impact on shaping the subsequent agenda on anti-racism which underlined the Durban Review Conference. (2007-2009)
- Impact on the content of the UN Committee on Economic Social and Cultural Rights General Comment No. 20 on non-discrimination. (2008-2009)
- Impact on the concept and content of draft EC directive on equal treatment irrespective of religion, sexual orientation, age and disability in non-employment areas. (2008)
- Impact on UN Treaty Bodies' understanding of equality: The Office of the High Commissioner on Human Rights has distributed the Declaration of Principles on Equality among all Treaty Body members and there is evidence that it has influenced their work. (2009)
- Impact on Council of Europe bodies approach to equality: the Council of Europe Commissioner on Human Rights has issued a statement praising the Declaration of Principles on Equality as the model approach to equality and human rights at the present time and recommending it to Council of Europe bodies. The Parliamentary Assembly of the Council of Europe has decided to conduct a study of the Declaration. (2009)

## III. Impact on Courts



- The High Court of Delhi – declared the criminalisation of homosexuality unconstitutional, relying *inter alia* on the Declaration of Principles on Equality as “the current international understanding on the principle of equality”. (2009)
- Impact of the judiciary through the Court Watch component of the email news service disseminating ERT comments on important court decisions related to equality.
- Impact of the judicial understanding of the right to equality as applied in European Union law through participation in European Commission organised trainings for members of the judiciary from EU Member States.

#### IV. Impact on Other Stakeholders and Key Players

- **Multiple countries** – (1) ERT has influenced the entire discourse on equality, through its numerous communications with a variety of stakeholders. ERT has raised capacity through providing resources and training, including: a) a Virtual Library on Equality; b) email news service containing Legislation Watch, Court Watch and calls to action; c) *The Equal Rights Review*; d) contributing to training projects.(2) Through its project “Detention of Stateless Persons”, ERT has been a catalyst for change -- influencing the outlook and understanding of key organisations working in the field. Through its work ERT has challenged refugee and immigration organisations to view statelessness as primarily a human rights and equality issue. In general, the level of documentation, analysis and research undertaken by ERT has immensely contributed to a growing body of literature on statelessness and related issues.(3) ERT has on an *ad hoc* basis helped stateless detainees who were interviewed for research purposes, by linking them with immigration lawyers and helping understand the arbitrary nature of their detention.
- **Australia** - the Declaration of Principles on Equality has been used in 2009 national consultation on strengthening the protection of human rights, e.g. in submission by Human Rights Council of Australia, with a recommendation to use the definition of discrimination and the list prohibited grounds as in Principle 5 of the Declaration. (2009)
- **India** - increased capacity of lawyers, paralegals and activists on international, comparative and national anti-discrimination law, in particular gender discrimination, disability discrimination, sexual orientation discrimination and equality enforcement mechanisms through conducting legal workshop in Mumbai in December 2009.
- **Kenya** – increased capacity of staff from civil society organizations working on human rights and on behalf of vulnerable groups, in respect of ability to apply concepts of non-discrimination in advocacy, litigation and awareness raising through conducting a workshop in Nairobi in January 2010.

- **United Kingdom** – on the stakeholders comprising the Equality and Diversity Forum; on the members of the Discrimination Lawyers Association; on other NGOs; academics; and the general public. (2008-2010)

## **IMPACT SOUGHT THROUGH CURRENT AND FUTURE PROJECTS**

### **I. Impact on Governments**

- **Multiple countries** – (1) positive changes related to the adoption and implementation of national law and policy on equality and non-discrimination;(2) positive changes related to the development and application of progressive jurisprudence on the right to equality;(3) positive changes related to national law and policy regarding statelessness determination procedure; (4) positive changes limiting the legally admissible term of detention of stateless persons.
- **Belarus** – development of comprehensive anti-discrimination legislation and policies.
- **India** – (1) on improving national equality legislation as well as the implementation of current equality legislation; (2) on policies regarding the investigation and prevention of discrimination by law enforcement.
- **Kenya** – on adopting national equality legislation.
- **Malaysia** – development of comprehensive anti-discrimination legislation and better implementation of existing equality norms.
- **Nigeria** – on policies regarding the investigation and prevention of discrimination by law enforcement.
- **Slovenia** – further policy changes, including providing remedy to the “erased”.
- **Solomon Islands** – improving the equality legislation and policy as well as raising the capacity of state actors to give effect to the right to equality.
- **United States** – (1) on policies regarding the investigation and prevention of discrimination by law enforcement; (2) on policies regarding the detention of stateless persons in the context of immigration and s security detention.

### **II. Impact on IGOs**

- Positive changes in the understanding and application of the right to equality in conventions, declarations, and other standard setting procedures of IGOs.

- Positive change in the international (UN and regional systems) standards related to the investigation and prevention of discriminatory practices by law enforcement bodies.
- Positive changes in the standards regulating the detention of stateless persons, in particular limiting the maximum term of detention.

### **III. Impact on Courts**

- Further jurisprudence based on the Declaration of Principles on Equality.

### **IV. Impact on Other Stakeholders and Key Players**

- **India** – increased capacity of key NGOs and lawyers to implement equality and non-discrimination law in India through promotion of national, regional and international standards and best practice.
- **Kenya** – increased capacity of Kenyan civil society stakeholders to be key players in building a national anti-discrimination regime.
- **Multiple counties where projects are underway or starting soon** – increased capacity of key civil society stakeholders to be key players in building a national anti-discrimination regime; to monitor disadvantage and discrimination and engage in initiatives to strengthen the protection against discrimination.