

# LawTransform Exchanges 2015

## 17 – 21 August

**Public Lectures, Panels\*, Roundtables\*\***  
& Closed workshop sessions:  
( **SRR project events**; **Land Rights India project events**, )

	Monday 17	Tuesday 18	Wednesd 19	Thursday 20	Friday 21
8:30 – 10:00	<b>Opening BergenExchanges</b>	<b>Roundtable:</b> <i>Backlash</i>	<b>Roundtable</b> <i>Implementing Health Rights</i>	<b>Book Talk</b> Transitional justice	<b>Panel*</b> <i>Land India</i>
10:30 – 13:00	<b>Panel</b> <i>Abortion lawfare</i>	<b>Panel</b> <i>LGBT lawfare</i>	<b>Roundtable</b> <i>Health effects of criminal law</i>	<b>Roundtable</b> <i>I: Islamist lawfare</i>	<b>Roundtable*</b> <i>Environmental lawfare - Global</i>
				<b>Roundtable</b> <i>II: counter-progressives</i>	
Lunch					
14:00 – 16:00	(Closed session “Abortion lawfare” project )	<b>Roundtables</b> <i>I: Constitutions</i> <i>II: Databases</i>	<b>Roundtable</b> <i>Lawfare for livelihood and formalization</i>	<b>Roundtables</b> <i>I: Best interest of the Child</i> <i>II: Experimental studies of law &amp; courts</i>	<b>Roundtables*</b> <i>I: Judicial networks</i>
Coffee	<b>Roundtables</b> <i>Compliance/ effects</i>				
16:30 – 19:00		(Closed session “SRR-global battles” project & Closed project social event)	<b>Annual Lecture</b>		(Closed session “India land rights” project)
Social event	<b>Reception</b>		<b>Reception</b>	(Closed project social event )	

\* **Panel sessions** present work in progress from ongoing Centre on Law & Social Transformation (LawTransform) projects.

\*\* **Roundtables** aim for problem-solving-type dialog on methodological, theoretical or ethical issues - or serve to brainstorm project ideas. Format: framing introduction and 2-4 short interventions (3-5 minutes) as starting point for moderated discussion.

## Monday 17 August

9:00 - 9:45 **Opening session: Bergen Exchanges 2015**

10:00 – 13:00 **Panel session:**  
**Abortion rights lawfare in Latin America - differences & drivers**

*Abortion is high politics in many parts of the world, not least in Latin America. Over the past decade, several countries have further restricted access to abortion. Others have liberalized their laws and policies. Activist on all sides of the conflict have used courts in their struggles, and strategies and rhetoric seems to travel. Why do we see these (varying) dynamics? Which networks and actors are central? And what are the consequences of these battles and legal changes? This panel presents work in progress from an international research project on “Abortion Lawfare in Latin America”.*

Chair: **Rachel Sieder** (CIESAS, Mexico/CMI)

Panel of case studies:

- Mexico (**Rachel Sieder & Yacotzin Bravo**, CIESAS, Mexico)
- Peru **Camila Gianella** (Comparative Politics, Bergen Univ. (UiB))
- El Salvador (**Angelica Peñas**, University of Cordoba, Argentina)
- Brazil (**Marta Rodriguez de Assis Machado**, Uni. of Sao Paulo)
- Argentina (**Paola Bergallo**, Palermo University, Argentina)
- Colombia (**Isabel Jaramilo** Los Andes University, Colombia)
- Uruguay, regional dynamics (**Ana Cristina Gonzalez**, Colombia)
- Comments by **Ruth Rubio Marin** (European University Institute, Italy)

14:00-15:30 *Closed Project session (Abortion Lawfare in Latin America)*  
*/PhD course session*

16:00 – 18:30 **Methodology roundtables: Effects of lawfare**

*How can we know whether and when legal mobilization is effective and what the effects of court decisions are? These questions are at the heart of socio-legal studies, and while advances have been made in recent years, both conceptually and methodologically, ample challenges remain. The first of these two roundtables discusses quantitative and qualitative research strategies and methods for measuring compliance with court decisions and impact of court orders, based on a forthcoming book. The second roundtable zooms in on the challenges related to studying effects of legal mobilization in the field of sexual and reproductive rights.*

**16:00 – 17:10 Measuring compliance & and impact of court orders**

Chair: **Malcolm Langford** (LawTransform/CMI/University of Oslo)

Introduction: **Daniel Brinks** (University of Austin, Texas/CMI)

**17:20 – 18:30 Studying effects of sexual and reproductive rights lawfare**

Chair **Siri Gloppen** (LawTransform/UiB/CMI)

Introduction: **Paola Bergallo**

**19:00 – 21:00 Reception** in Knut Fægris hus (open to all, but please rspv by 12 August)

## **Tuesday 18 August**

**8:30 – 10:00 Roundtable: Backlash – how to conceptualize and measure it?**

*Sometimes efforts to advance rights have the opposite results. Adverse political reactions against legal mobilization are often described as “backlash”. This is frequently observed in morally charged areas such as sexual and reproductive rights and in relation to marginalized groups such as migrants. But to study and establish backlash effects raises complicated questions both at conceptual and methodological level. How can we uncover the causal mechanisms at play and systematically measure effects?*

Chair: **Camila Gianella**

Introduction by **Thomas M. Keck** (Syracuse University, USA)

**10:30 – 13:00 Panel session:**

### ***Global LGBTIQ equality battles – cases from across regions***

*The past decade has seen increasing political contestation over sexual orientation and gender identity in all parts of the world, with rights and courts – both at national and international level – at the center of the battles. In Western Europe and North America the fights are mainly over marriage equality and discrimination, in many countries in Africa and the Middle East, struggles over criminalization of homosexuality and stricter penalties for same sex intimacy is at the heart of the political contest. This panel presents work in progress from an international research project on “Sexual & Reproductive Rights Lawfare. Global Battles”*

Chair: **Siri Gloppen**

Panel of case studies:

- Comparative Database (**Malcolm Langford, Vegard Vibe, Tori Kirkebø**)
- Latin America (**Camila Gianella & Bruce Wilson**)
- Argentina (**Paola Bergallo**)
- Peru (**Carlos Zelada**, Universidad del Pacífico, Peru)
- India (**Vikram Kolmanskog**, Independent researcher/UiO)
- Uganda (**Adrian Jjuuko**, HARAPF, Uganda)
- Malawi (**Chrispine Gwalawala Sibande**, IPAS, Malawi)
- Austria (**Stephanie Schmölzer**, PluriCourts, UiO)
- European System (**Eszter Kismodi**, Independent researcher)

Comments by **Tom Keck, Daniel Brinks**

**14:00 – 15:30 Roundtable: Effects of constitutional change**

*Constitutions are at the heart of intense political struggles – from the French Revolution to the Arab Spring, demands for constitutional change were at the core. Also in stable democracies constitutions are rewritten to provide a more suitable social contract and better basis for the life and development of the society. But how much of a difference do constitutions really make? This panel presents and discusses two new ambitious research projects that seek to find out.*

**Chair: Daniel Brinks,**

**Introduction:**

- **Ruth Rubio Marin** on her new research project on gender and constitution-making
- **Haakon Gjerløy** on a new project “Disentangling the Economic Effects of Political Institutions” directed by Carl Henrik Knutsen (University of Oslo).

**16:00 – 17:00 Roundtable: Constructing Databases for Mixed Method Research**

*Mixed methods research, systematically integrating qualitative and quantitative analysis, present opportunities for improving our understanding of the effects of law and legal mobilization. Databases are increasingly constructed and improved to facilitate more rigorous quantitative analysis. However, qualitative researchers often feel that what the quantitative research focuses on is irrelevant to what they seek to understand. This roundtable discusses challenges of integrating qualitative and quantitative research and seeks to advance the understanding of how databases can be constructed to better support mixed methods research.*

**Chair: Malcolm Langford**

**Participants include:**

- **Elin Skaar**
- **Andra Castagnola**
- **Elisabeth Ivarsflaten**

**17:00 -19:00 Closed project session (Global battles project - project social event)**

## Wednesday 19 August:

9:00 – 11:15 **Roundtable:**

### ***Implementing health rights - dilemmas, constraints & opportunities***

*International human rights documents and many domestic constitutions and laws enshrine the right to health – which in principle entitles every individual to “the highest attainable standard of physical and mental health”. But what does this mean in practice, and how can it be implemented in a situation where demand for health services everywhere exceeds ability to pay and all countries – including Norway – discuss ways to limit health care spending. Do health rights undermine attempts to fairly prioritize resources for health by entitling everyone to everything or can health rights be implemented in ways that contribute towards fairer health policies? In this panel judges and researchers from different countries discuss opportunities for improving health policies and outcomes through the use of rights, and dilemmas and constraints rights-based approaches face in contexts faced with different levels of resource scarcity.*

Chair: **Henriette Sinding Aasen** (Faculty of Law, UiB)

Introductions:

- **Mumbi Ngugi** (Justice of the High Court, Kenya)
- **Lilian Tibatemwa** (Justice of the Court of Appeal, Uganda)
- **Ole Frithjof Norheim** (Medical Faculty, UiB)
- **Octavio Ferraz** (Kings College London)

Participants in the debate will include: **Anne-Mette Magnussen** (Bergen University College); **Bjørge Sandkjær** (Norad) **Paola Bergallo**, **Bruce Wilson**, **Camila Gianella**, **Siri Gloppen**

11:30 – 13:00 **Roundtable: Lawfare for livelihood and formalization**

*The urban poor often live in conditions where poverty is reinforced by conditions of informality and criminalization. Slum-dwellers, street vendors, waste-collectors and sex workers have sought to use the courts to improve their conditions and gain recognition for their right to livelihood, food and housing, and formalization of the means of achieving it. But even when they have succeeded in court, changes on the ground have often been lacking. This round-table discusses under which conditions poor and “informalized” people’s lawfare for livelihood can contribute towards social change.*

Chair: **Pilar Domingo** (ODI, UK)

Introductions:

- Colombian waste collectors’ lawfare (**Adriana Ruiz-Restrepo**, CIVISOL)
- South African slum-dwellers’ lawfare (**Jackie Dugard**)
- Malawian Sex-workers’ lawfare (**Chrispine Gwalawala Sibande**)

Participants in the debate include: **Namita Wahi** (Centre for Policy Research, Delhi, India), **Ingvild Skage** (Comparative Politics, UiB) **Mumbi Ngugi**; **Lilian Tibatemwa**, **Malcolm Langford**

**Lunch**

14:00 -16:00 **Roundtable:**

***Conceptualizing, studying and measuring health effects of criminal law***

*Criminal law is used to deter and punish unwanted behaviour, including unwanted sexual behavior – ranging from rape, incest, sexual violence and HIV transmission, via a wide range of consensual sexual conduct occurring between competent persons, including sexual relations outside marriage, same-sex sexual behaviour and consensual sex work, to access to and provision of sexual and reproductive health information and services, such as abortion. Criminalization of sexual and reproductive actions and services has intended as well as unintended consequences for health – including for mental health and for the provision and uptake of health services. But how can health consequences of (de)criminalization best be studied? In this roundtable the lead author of a new WHO report on “Sexual health, human rights and the Law”, meets experts on effects of criminal law from the faculty in Bergen and researchers about to embark on a new LawTransform project aiming to investigate health effects of (de) criminalization of abortion and homosexuality in Africa.*

Chair: **Jørn Jacobsen\***

Introduction by: **Eszter Kismodi**

Participants in the debate include: **Chrispine Gwalawala Sibande, Andrian Jjuko, Camila Gianella, Maja Janmyr...**

16:30 – 18:00 **ANNUAL LECTURE ON LAW & SOCIAL TRANSFORMATION**

**Gerald Rosenberg**

(University of Chicago Law School)

***Hollow Hope Revisited:  
how to assess the impact of marriage equality litigation in the USA***

*Gerald Rosenberg’s 1991 book “The Hollow Hope” is one of the most cited works in socio-legal studies. A quarter of a century after it was published – arguing that litigation is unlikely to bring significant social change – it remains is the standard reference, placing the onus of proof on those who see lawfare as a path to social transformation to present convincing evidence. Many would argue that the recent development regarding same sex marriage in the United States, which has centered around the courts, present a challenge to Rosenberg’s view. In this lecture he gives his analysis. Following the lecture there will be comments from an expert panel before the floor is opened for a general debate.*

Commentators:

**Thomas M. Keck** (Syracuse University),

**Rachel Sieder** (CIESAS/CMI)

**Malcolm Langford** (CMI/UiO)

18:30 – 22:00

**Reception** (open to all, but please rspv by 12 August)

## Thursday 20 August

### 8:30 – 9:30 **Book talk: *After Violence: Effects of Transitional Justice Mechanisms***

*This session discusses the findings of a new LawTransform book: **After Violence: Transitional Justice, Peace, and Democracy**, edited by Elin Skaar, Camila Gianella and Trine Eide. The book examines the effects of transitional justice on the development of peace and democracy across contexts, combining case studies and comparative qualitative analysis. It tracks the experiences of post-authoritarian Uruguay and Peru and post-conflict Rwanda and Angola in dealing with their history of violence and repression through a combination of four different transitional justice mechanisms: criminal trials, truth commission, reparations, and*

*Chair/introduction: **Elin Skaar***

### 10:00 – 11:20 **Roundtable: Islamist Lawfare - Women and Sexual Morality.**

*Chair/introduction: **Liv Tønnessen (CMI) & Torunn Wimpelmann (CMI)***

*Islamists typically make family law and gender-related criminal law cornerstones of their political projects. Key struggles include divorce, inheritance and custody for children; 'honor killings', domestic violence, underage marriage, adultery and rape. This roundtable discusses the significance of lawfare for islamist movements and for the resistance towards them, based on ongoing work in Afghanistan and Sudan.*

### 11:40 – 13:00 **Roundtable: Studying counter-progressive actors**

*Research into social movements and legal mobilization have tended to focus on progressive movements. To study "the other side" - actors who are ideologically far removed, and actively working against a cause normatively supported by the researcher – involve particular practical, methodological and ethical challenges. This roundtable focuses on how best to study "the dark side" or counter-progressive actors.*

*Chair/introduction: **Neil Datta***

*Participants in the debate include: **Tom Keck, Ana Cristina Gonzales, Liv Tønnessen, Torunn Wimplemann,***

### 14:00 – 15:30 **Roundtable: Welfare-state lawfare - in the best interest of the child**

*Chair/introduction: **Marit Skivenes***

*Rights of children are especially protected in international law as well as domestic legislation in many countries, obliging the state to act in the best interest of the child - including taking over custody in situations of parental neglect or maltreatment. These are highly sensitive and controversial cases involving great risks of erring either way, and where in particular cultural minorities often feel targeted. This roundtable discusses how "lawfare in the best interest of the child", and the treatment of these cases varies across countries, and what the implications are.*



**16:00 – 17:30 Roundtable:**

**Experimental Studies of Judicial Behaviour and Effects of lawfare**

*In the past decade experimental research has becoming increasingly influential in the social sciences – drawing inspiration among other from psychology, medicine, behavioral economics and survey research. Also in the study of the dynamics and effects of law, legal mobilization and judicial behavior, experimental methods can potentially allow for better understanding of the causal mechanisms at play – such as whether and when judicial decisions contribute to attitudinal change and when they cause a backlash. This aim of this roundtable is to discuss how experimental methods may contribute towards on-going and planned research projects.*

*Chair/introduction: Elisabeth Ivasflaten\**

**19:00 – 22:00 Project Social event (Land rights/environment)**

**Friday 21 August**

**9:00 – 10:30 Panel: Land rights and socio-environmental conflict in India**

*This panel presents work in progress from the ongoing research project on Land Rights and Inclusive Sustainable Development in India's federal system. The project explores the role of land rights in the context of the current development Indian development agenda, analyzing how land rights are being transformed and how different forms of regulations play out in various Indian states. Particular focus is on the land rights of vulnerable groups such as adivasis (indigenous communities), that in principle have special protection (also on ecological grounds), both where the rights often prove unable to protect communities from displacement and the environment from dearadation.*

*Chair: Siri Gloppen*

*Panel: Namita Wahi, Kavita Søreide, Pallav Shukla, Hugo Stokke*

*Commentator: Jackie Dugard*

**11:00-13:00 Roundtable: Socio-environmental lawfare – global perspectives**

*There is thus a growing need to understand the role that law does and potentially could play as an arena for regulating socio-environmental conflicts. Lawfare over land and water resources by the state – using its eminent domain privileges to appropriate land for own development or facilitating private industry – as well as by affected groups, is on the increase on all continents. Lawfare is also used in attempts to force governments to regulate carbon emissions and facilitate adaptation in the face of climate change. Several ongoing and proposed LawTransform projects engages these dynamics, and this panel aims at exploring the grounds for a new broad comparative project in this field*

*Chair: Jackie Dugard*



*Panel: Lara Cortes, Camila Ginanella, Bruce Wilson, Namita Wahi, Kavita Søreide, Pilar Domingo ...*

**14:00 – 15:15 Roundtable:**  
**Judicial independence, judicial networks and informal influence**

*Studies of judicial independence usually focus on the formal aspects such as appointment and dismissal procedures and conditions of tenure, or on cultural traditions and professional norms. Less attention has been paid to the informal source that may diminish – or strengthen – judicial independence, including national and transnational judicial networks. This roundtable brings together academics and judges over a discussion about the significance of judicial networks and the informal sources of – and threats to – judicial independence.*

*Chair: Siri Gloppen*

*Introduction: Alexander Stroh*

*16:30-18:00 Closed session (Land rights India project)*