

WELCOME TO THE
Bergen Exchanges
on Law & Social Transformation

17-21 August 2015



Venue: Bergen Resource Centre for International Development, Jektviksbakken 31, Bergen

Researching law as an instrument of social change

Bergen Exchanges on Law & Social Transformation PROGRAM

Venue: Bergen Resource Centre for International Development, Jektviksbakken 31, Bergen

Monday 17 August

9:00 **Opening of Bergen LawTransform Exchanges 2015**

10:00 – 13:00 **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, some countries have totally banned abortion or further restricted access, while others have liberalized their laws and policies. Activist on all sides have used courts in their struggles - and strategies and rhetoric seem to travel. Why do we see these dynamics? Who are the central actors and networks? And what are the consequences? This panel presents work in progress from a Centre on Law & Social Transformation (LawTransform) research project on "Abortion Lawfare in Latin America".

16:00 -18:30 **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**.*

19:00 **Reception** in Knut Fægri Hus, Villaveien 9
(please RSVP by 12 August to yngvild.torvik@cmi.no)

Tuesday 18 August

8:30 – 10:00 **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?

10:30 – 13:00 **Global LGBTIQ equality battles**

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”

14:00 – 15:30 **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, such as Norway, 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.

16:00 – 17:00 **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.

Wednesday 19 August:

9:00 – 11:15 **Implementing health rights - dilemmas, constraints & opportunities**

The right to health – enshrined in international human rights documents and many domestic constitutions – in principle entitles every individual to “the highest attainable standard of physical and mental health”. But what does this mean in practice? How can it be implemented when demands for health services exceeds ability to pay and all countries, including Norway, discuss ways to limit health care spending? Do health rights, by entitling everyone to everything, undermine attempts to fairly prioritize resources for health? Or can health rights be implemented in ways that contribute towards fairer health policies. 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.

11:30 – 13:00 **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 is often lacking. This round-table discusses under which conditions poor and “informalized” people’s lawfare for livelihood can contribute to social change.

14:00 -16:00 **Conceptualizing, studying & measuring health effects of criminal law**

Criminal law is used to deter and punish unwanted behaviour. This includes unwanted sexual behaviour – ranging from rape, incest, sexual violence and transmission of HIV via various forms of “irregular” consensual sexual relations (outside marriage, same-sex sexual behaviour, sex work) to provision of/access to 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 – including for mental health and for the provision and uptake of health services. But how can health consequences of (de)criminalization best be studied? A starting point for the discussion is a new LawTransform project investigating health effects of (de)criminalization of abortion and homosexuality in Africa.

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

Gerald Rosenberg: *Hollow Hope Revisited:*
on the impact of marriage equality litigation in the USA

Gerald Rosenberg's 1991 book "The Hollow Hope", one of the most cited works in socio-legal studies, forcefully argued that litigation is unlikely to bring significant social change. A quarter of a century later, it remains 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 developments regarding same sex marriage in the United States – where litigation has been central - challenges 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 general debate.

VENUE: AUDITORIUM 4 at the FACULTY OF LAW, UNIVERSITY OF BERGEN

18:30 **Reception** (please rspv by 12 August to yngvild.torvik@cmi.no)

Thursday 20 August

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

This session discusses the findings of a new book edited by Elin Skaar, Camila Gianella and Trine Eide examining the effects of transitional justice on the development of peace and democracy. Combining case studies and comparative qualitative analysis, it tracks the experiences of Uruguay, Peru, 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 amnesties.

10:00 – 11:15 **Islamist Lawfare - Women and Sexual Morality.**

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.

11:30 – 13:00 Studying counter-progressive actors

Research into social movements and legal mobilization has 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.

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

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 vary across countries, and what the implications are.

16:00 – 17:30 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 amongst 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.

Friday 21 August

9:00 – 10:30 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 degradation.

11:00-13:00 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

14:00 – 15:15 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.

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