

LIMITED EDITION

Bergen Exchanges on Law & Social Transformation
17 - 21 AUGUST 2020



(in)equality & law in times of crisis

GRIP * RCN * RAFTO * BCEPS * DISCRETION * GSU * FrittOrd

Law Transform- The CMI-UiB Centre on Law & Social Transformation- is a global collaborative network for research and education on the role of law in social change, with a physical hub in Bergen. It is co-owned by the **Chr. Michelsen Institute (CMI)** and the **University of Bergen (UiB)**. LawTransform is directed by **Siri Gloppen** (University of Bergen). Co-director is **Malcolm Langford** (University of Oslo)



The Bergen Exchanges on Law & Social Transformation (#BeEx) is a meeting place – this year more digital than usual - for scholars and practitioners from across the globe who seek to understand how law serves as an instrument of change - and how it shapes and is shaped by power relations. During a week of public discussions, we examine strategic uses of rights and law and how legal institutions function as arenas for political contestation (*lawfare*). The multi-disciplinary and international nature of the *Bergen Exchanges* makes it a unique space for improving research strategies and methods to grasp the effects of law & lawfare. This includes the use of legal instruments by governments to shape societies – whether through constitutional change, international treaties, statutes or regulations – as well as by social actors who go to court or otherwise engage rights and law to advance their goals. Effects take different forms. How legal strategies alter political dynamics, ideas and discourses can be as important for long term transformation as more immediate changes in laws, policies, or the distribution of resources. We also seek to better understand the functioning of legal and administrative institutions as they adjudicate, interpret and implement legal norms

The overarching topic of the BeEx2020 is **Law & Inequality in Times of Crisis**, focusing on strategic use of law to address inequalities in **gender; migration, land, water, climate, health, and knowledge systems**, and **legalized struggles over democratic backlash** – and how the pandemic affects these struggles .

In connection with the Bergen Exchanges, we have an annual, interdisciplinary **PhD course on Effects of Lawfare** (which this year is digital). It is free of charge and open to applicant from Norwegian and international institutions (out-of-town applicants have to cover their own travel and accommodation costs). Information is available at the **[www.lawtransform](http://www.lawtransform.no)** webpage.

All events are public, and participation is free of charge. The sessions are streamed as webinars and recorded. If this is a problem for you, please let us know.

Videos of most sessions are available at **Bergen Global/CMI-UiB Youtube channel**; https://www.youtube.com/channel/UCD6cieC9zmTIV1_YDWLlzbq?fbclid=IwAR32szGPiV0ei90z-Rh9xbCW1wZcqChxMdXTCy7zlxNgSB6ZGGcWB-Ex3s

If you have a **disability and require adjustments** to participate on an equal basis with others, please let us know in advance at info@lawtransform.no.

The Bergen Exchanges are made possible through contributions from the research projects that form part of LawTransform, and whose research is presented throughout the Exchanges, through collaboration with our partners: the Global Research Program on Inequality (**GRIP**); the Bergen Centre for Ethics and Priority Setting (**BCEPS**) and the UiB Centre for Research on Discretion and Paternalism (**Discretion**) and by generous support from the **CMI**; **UiB**, **Bergen Global**, **UiB Global Challenges**; the **Rafto Foundation** and the **Norwegian Research Council**

To join our team of volunteers, contact us at info@lawtransform.no



#BeEx2020 (in)equality & law in times of crisis what the pandemic has revealed, exacerbated and enabled

PROGRAM

Friday 14 August

15.00-16.30 (BeEx Webinar)

PluriLand: Conflict and Contestation in Plural Land Rights Regimes

Launch of new LawTransform project PluriLand (Norwegian Research Council Grant 2020-2024) which aims to develop a theory of land rights claiming in plural legal regimes through cross-regional investigation of conflicts over land affecting the land rights of vulnerable communities.



Moderated by **Rachel Sieder** (CIESAS/CMI). Panel: **Jackie Dugard** (University of Witwatersrand, Johannesburg), **Tatiana Alfonso** (ITAM, Mexico City), **Mekonnen Firew** (University of Missouri), **Namita Wahi** (Centre for Policy Research, New Delhi)

Video from the seminar: <https://www.youtube.com/watch?v=YUoJ7C3NhUc>

Monday 17 August

15.00-16.00 Opening of the Bergen Exchanges 2020

- **Ottar Mæstad** (Director CMI)
- **Karl Harald Søvig** (Dean School of Law, University of Bergen)
- **Bjørn Enge Bertelsen** (GRIP)
- **Siri Gloppen** (LawTransform)

Opening Keynote: Inequality & Law in Times of Crisis

by **Malcom Langford** (University of Oslo / LawTransform)



The COVID-19 pandemic has exposed, once again, the deep and persistent socio-economic inequalities in society. Across the world, marginalised and low-income groups have suffered the most from both infection transmission and the effects of lockdowns. In this lecture, Malcolm Langford will discuss the possibilities and limitations of using law to tackle inequality, with a focus on socio-economic rights and the current crisis. He will argue that while human rights law holds untapped potential, it will be the strategic framing and mobilisation of law by all actors that will shape and inflect the long-term impact of COVID-19 on inequality.

Malcolm Langford is a Professor of Public Law, University of Oslo where he directs and the *Centre on Experiential Legal Learning* (CELL). He is also Co-Director of *LawTransform*. A lawyer and social scientist, his publications span human rights, international investment and development, comparative constitutionalism, technology, and the politics of the legal profession. He is the Co-Editor of the Cambridge University Book Series on *Globalization and Human Rights*, Chairperson of the *Academic Forum for Investor-State Dispute Settlement (ISDS)*, and an advisor to various UN bodies, governments and NGOs. His books include *Socio-Economic Rights in South Africa: Symbols or Substance?* (Cambridge University Press, 2014) and the *Oxford Handbook on Economic and Social Rights* (2020/2021). He has won prizes for his critical empirical work on international investment arbitration and university education. Before joining academia, he was a Senior Legal Officer at the Centre for Housing Rights and Evictions (2001-2006).

Comments by Karl Harald Søvig (Dean of Law, University of Bergen/UiB)

Video from the seminar: <https://www.youtube.com/watch?v=Q4TFE1GUYDU>



16:15 - 17:15

Democracy and Autocratization by Law

Across the world, we now see many regimes moving towards less democratic forms of rule. This is often done through legal means and also often by governments who have gained power through democratic elections. In this seminar we ask how law serves the purposes of autocratic backsliding rulers across regimes, and whether it also offers means of resistance. And to what extent and how has governments used legislation related to the Covid-19 to tighten their control? In this seminar political scientists and legal scholars will discuss central political developments that challenge law and politics to "speak across disciplines" in order to grapple with how political inequalities are exacerbated by the Covid-19 pandemic.

Roundtable moderated by **Lise Rakner** (University of Bergen)

With **Matthew Gichohi**, (UiB); **Eirik Holmøyvik** (UiB); **Marta Machado** (FGV Law School).



17:30 - 19:00

Urban inequality and securitization

This roundtable will critically engage and probe the relations between multiple forms of urban inequalities and securitization brought on by the pandemic, and ask: In what ways did the pandemic exacerbate, transform or abate already existing urban inequalities in highly unequal cities across the world? How are new technologies of surveillance, such as algorithmic governance, drone technology or facial recognition, related to urban inequalities? Beyond the state, what providers of security are present within global cities today? What are the possible roles of law and legal practice in relation to confronting urban inequalities in an age of security?

Roundtable moderated by **Bjørn Enge Bertelsen** (University of Bergen)

with **Randi Gressgård** (UiB), **Atreyee Sen** (University of Copenhagen), **Antonella Di Trani** (EHESS, Paris), **Tereza Østbø Kuldova** (OsloMet)

Global Research Program on Inequality (GRIP) event * Human Rights City series**

Video from the seminar: <https://www.youtube.com/watch?v=44xQPmQfGZI>



Social event at Knut Fægris Hus



Tuesday 18 August:

15:00 - 16:00

Researching Migration & Law

Lives of migrants and refugees are radically marked by law and its absence – they have far weaker and more precarious legal protections than citizens while being subject to harsher restrictions and controls. Increasing politicization of migration has further eroded legal protections, both at domestic and international level and harnessed the cruelty of the law, and the question of how refugees and migrants can be better protected in the current conditions is one of the big questions of our time. This roundtable will present research aiming to understanding the dynamics and impacts of the law as it relates to migrants and refugees – and possibly contribute to change. And we will discuss how the Covid19 pandemic affects their research - and conditions on the ground.

Roundtable moderated by **Siri Gloppen**

with **Hakan Gurcan Sicakkan** (UiB) **Jeffrey Staton** (Emory University) and **Jessica Schultz** and **Edgar Cordova** (CIESAS, Mexico)

Video from the seminar: <https://www.youtube.com/watch?v=w6NCvTrG4ug>

Video with photos by Edgar Cordova:

https://www.youtube.com/watch?v=SjRU-35_3iA&feature=youtu.be



16.15 -17.15

Water, Inequality and Rights

In 2010 the United Nations declared the right to water and sanitation as a Human Right. This was part of an effort to secure everyone access to sufficient water for basic consumption in a situation where water is increasingly scarce and commercialized and poor people need loosing out in the competition. To what extent has this had effects on the ground. A LawTransform project (funded by a Norwegian Research Council grant) on *Elevating water rights to human rights: has it strengthened poor people's claim for water* has researched this and will present some findings

Roundtable chaired by **Malcolm Langford** (UiO/LawTransform) and **Bruce Wilson** (University of Central Florida) with **Daniel M. Brinks** (UT Austin); **Camila Gianella** (CMI), **Rebecca Shiel** (UCF); **Arkaja Singh** (Centre for Policy Research, Delhi), **Inga Winkler** (Columbia University); **Mathea Loen** (UiB)



17.30-19.00 **Protecting Children, Creating Citizens: Participatory Child Protection Practice** (BeEx Webinar)

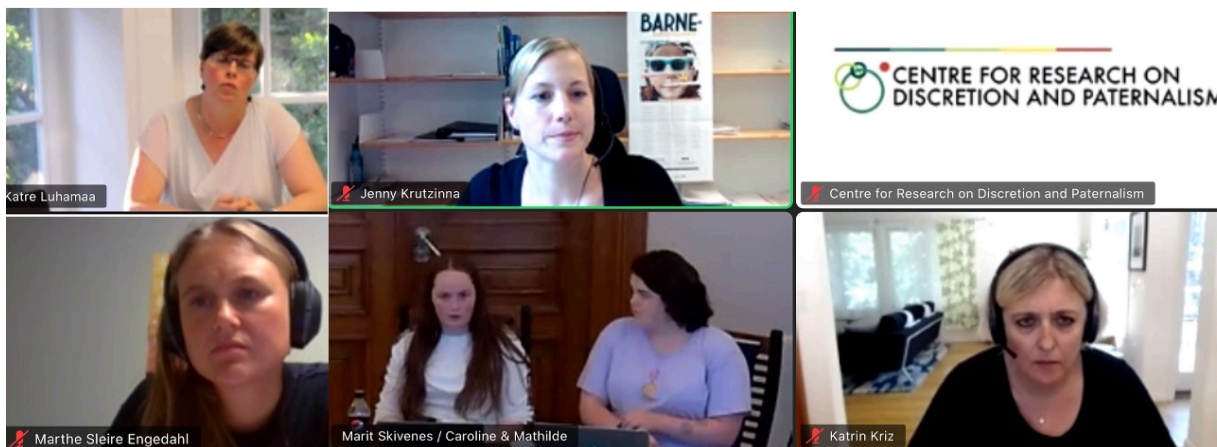
Keynote by **Professor Katrin Kriz** (Emmanuel College, US).

Child participation is one of the core principles of the United Nations Convention on the Rights of the Child (CRC). The Convention asserts that children and young people have the right to freely express their views and that there is an obligation to listen to children's views and to facilitate their participation in all matters affecting them within their families, schools, public services, institutions, government policies and judicial procedures. Although the Convention on the Rights of the Child recently celebrated its 30th anniversary, there is still a way to go on securing children's right to participation. What does research tell us about what inhibits and promotes children's participation? And how can we ensure that the child's needs and preferences are emphasized in decision-making and policy processes?

Short presentations by **Marit Skivenes** (UiB-Discretion Director), **Caroline** and **Mathilde** (Pro's at The Change Factory - Experts by Experience, Norway), **Katrin Kriz** (Emmanuel College, US), and **Katre Luhamaa** (University of Tartu).

UiB Centre for Research on Discretion and Paternalism (Discretion) event

Video from the webinar **Coming**



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Wednesday 19 August:

15:00 - 15:45

Gender, (in)Equality and the Law

Keynote: by **Jayna Kothari** (via Zoom)



This keynote critically discusses recent constitutional developments on gender (in)equality in India. In the last decade, the Indian Supreme Court has been seen as leading the path on gender equality with its progressive judgments. It broadened the interpretation of discrimination on the grounds of “sex” under to include not just discrimination on the basis of sex, but also on the basis of sexual orientation, gender identity and sex stereotypes. Despite these leaps, the lecturer will argue that the jurisprudence of the Court has been selective by passing progressive judgments in cases where there is no threat to the status quo. In situations where questions of women's equality are pitted against religious personal laws, or within institutions such as marriage and the family, the Court has not passed very progressive judgments or decisions are not made on the grounds of gender equality at all. The analysis points to a way forward for the Supreme Court to take on difficult questions if it is serious about gender equality.

Jayna Kothari is a Senior Advocate and practices in the Supreme Court of India. She is Executive Director, Centre for Law and Policy Research. She graduated from University Law College with a B.A. LL.B degree and read the BCL at Oxford University. Jayna's research and practice interests include constitutional law, gender and sexuality law, disability rights and discrimination law. She had argued in the Supreme Court in the recent constitutional challenges to Section 377 of the Indian Penal Code and adultery which were both decriminalized. She also argued the *Independent Thought* case in which the Supreme Court recognized child marital rape as a criminal offence. Her book, “The Future of Disability Law in India” was published in 2012 by Oxford University Press.

Comments by **Liv Tønnessen** (CMI) and **Henriette Sinding Aasen** (UiB)

Video from the webinar: <https://www.youtube.com/watch?v=DHdPosGjiXM>

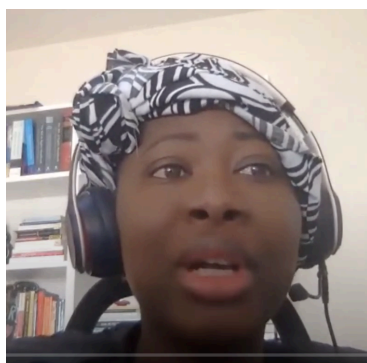
16:00 - 16:45

Researching intersectionality of gender, ability, class and caste

Women are created equal, but some women are more equal than others. Attention to gender and ways in which social inequalities are gendered have been emancipatory, in society and in research. The same is true for race, disability, and other markers of social inequality. But it is increasingly being acknowledged that we need to understand and acknowledge the ways in which these interact to create disadvantage within disadvantage. But how do we do this in practice in our research. Roundtable moderated by **Siri Gloppen**

with **Satang Nabaneh** (University of Pretoria); **Jayna Kothari** (Centre for Law & Policy Research); **Carmeliza Rosario** (UiB); **Liv Tønnessen** (CMI); **Meghan McCloskey** (University of Washington)

Video from the webinar: <https://www.youtube.com/watch?v=1D5dZSXRKAM>



17.00-18.30

Knowledge inequalities and possibilities for decolonizing the academy

Many recent works from across the globe—including the book *Epistemic Freedom in Africa* (2018), calls us to fundamentally re-think knowledge regimes, epistemic traditions and the nature of academic practice, including the institution of the university. Such discussions relate fundamentally to problematic colonial and postcolonial relations between the so-called South and the so-called North and critiques should be directed against long-standing, hegemonic understandings of (academic and other) knowledges and global academic hierarchies. This roundtable will critically engage and examine such calls for what we could call 'intellectual emancipation' or 'epistemological liberation', and ask: What can the nature of trans-continental research and academic partnerships be in light of such perspectives? What would a decolonization of the academy—or academic practice—involve? What are the possible roles of law and legal practice in relation to confronting global or local knowledge inequalities and, more generally, the horizon of decolonization?



Roundtable moderated by **Bjørn Enge Bertelsen** (University of Bergen)

Conversation with **Divine Fuh** (University of Cape Town), **Ernesto Seman** (UiB), **Temi Odumosu** (Malmö University), **Maria Paula Meneses** (University of Coimbra)

Global Research Program on Inequality (GRIP) event

Video from the webinar: <https://www.youtube.com/watch?v=y7q3fmfszOY>

Thursday 20 August:

15:00 - 16:00

**Legal and Political determinants of sexual and reproductive health:
effects of lockdown on queer lives**

Health is politics, and sexual and reproductive health and rights are arguably most political of all. It is the subject of politics and severely affected by politics – from criminalization of abortion and same sex intimacy, to provisions for in-vitro fertilization and comprehensive sex education. In the context of the Covid-19 pandemic the political measures taken to deal with the pandemic, including closing of services and lockdowns, have affected groups differently, and in many societies gay, lesbian and trans- (LGBT) people are particularly vulnerable. This seminar present findings from a survey of the LGBT community in Mozambique concerning their experienced during the lockdown, as well as a perspective from Uganda

Roundtable moderated by **Siri Gloppen** (UiB) with **Carmeliza Rosario** (UiB); **Camila Gianella** (CMI) and **Adrian Juuko** (HRAPF)

Video from the webinar: <https://www.youtube.com/watch?v=ctVBigBOZtk>



16:30 - 17:30

Global Health & Inequality - the role of health research diplomacy

Inequalities in health - within and between societies – are closely linked to how we organize our societies and how resources are distributed. This seminar will discuss why it is important to research inequality in health – its drivers, dynamics and effects - as well as how this research can be made politically relevant – including in the context of the Covid-19 pandemic – for example when it comes to how vaccines are distributed.



Ole Frithjof Norheim (UiB/BCEPS) and **Alicia E. Yamin** (Harvard University/Partners in Health) in conversation with **Anja Ariansen** (UiB)

Bergen Centre on Ethics and Priority Setting (BCEPS) event

Video from the webinar: <https://www.youtube.com/watch?v=NE1nPuyM6lk>



Friday 21 August:

15.00-15.45

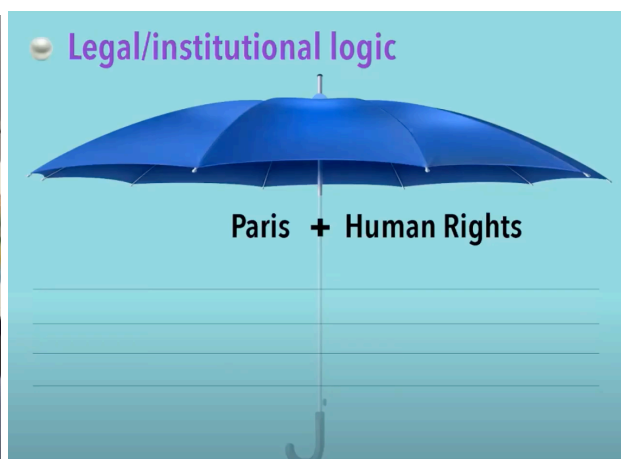
Social Rights in Climate Lawfare

Keynote by César Rodríguez-Garavito (NYU School of Law) **via Zoom**

As the climate crisis intensified and became acutely visible over the last few years, advocacy organizations are increasingly taking governments and corporations to court. Importantly, human rights actors, who had initially been slow to take on the climate emergency, have joined and boosted this trend and infused climate litigation with human rights norms, concepts and frames. This keynote lecture will explore the origins, legal innovations, conceptual challenges and practical impact of rights-based climate litigation around the world, with particular attention to cases based on socio-economic rights that tackle the deeply unequal impact of global warming on different populations and countries.

César Rodríguez-Garavito is a director of the Center for Human Rights and Global Justice at NYU School of Law and the Editor-in-Chief of *Open Global Rights*. He has been as visiting professor at Stanford, Brown, the University of Melbourne, European University Institute, University of Pretoria, the Getulio Vargas Foundation (Brazil) and the Andean University of Quito. He has published widely on global governance, international human rights, climate litigation, socio-environmental conflicts, and business and human rights. He has served as expert witness of Inter-American Court of Human Rights, an Adjunct Judge of the Constitutional Court of Colombia, a member of the Science Panel for the Amazon and a lead litigator in climate change, socioeconomic rights and indigenous rights cases.

Video from the webinar: https://www.youtube.com/watch?v=mjJ4y3v_uX8



15.45-17.00

Science in Climate Litigation - Epistemic Communities at work



Epistemic communities is a term used by political scientist Peter Haas to describe networks of knowledge-based experts who enjoy social authority, and who attempt - and sometimes succeed - in having their ideas institutionalized within state policies and practices, including international treaties. In the context of the 1,587 climate change cases that have burgeoned worldwide, the role of epistemic communities is crucial: natural scientists help shape litigation by supporting lawyers and NGOs in understanding and mobilizing science for climate justice. But is the process that simple? How do these networks of knowledge work when science proves challenging, for instance to attribute specific climate effects to fossil fuel companies? Are courts becoming epistemic fora where international climate science is integrated in the legal reasoning through bottom-up pressure? Can climate science help expand traditionally anthropocentric concepts, such as human rights, to also encompass Nature and make Nature rights enforceable against companies?

Roundtable moderated by **Siri Gloppen** (UiB/LawTransform) with: **Randall Abate** (Monmouth University), **Kikki Kleiven** (UiB), **Yann Robiou du Pont** (University of Melbourne) and **César Rodríguez-Garavito** (NYU School of Law)

Video from the webinar: https://www.youtube.com/watch?v=BbY1CO_JN5E

Closing of the 2020 Bergen Exchanges



Get involved! The student group, interns and affiliates bring LawTransform alive during the Bergen Exchanges and by planning and organising activities throughout the year. You are welcome to join us!

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