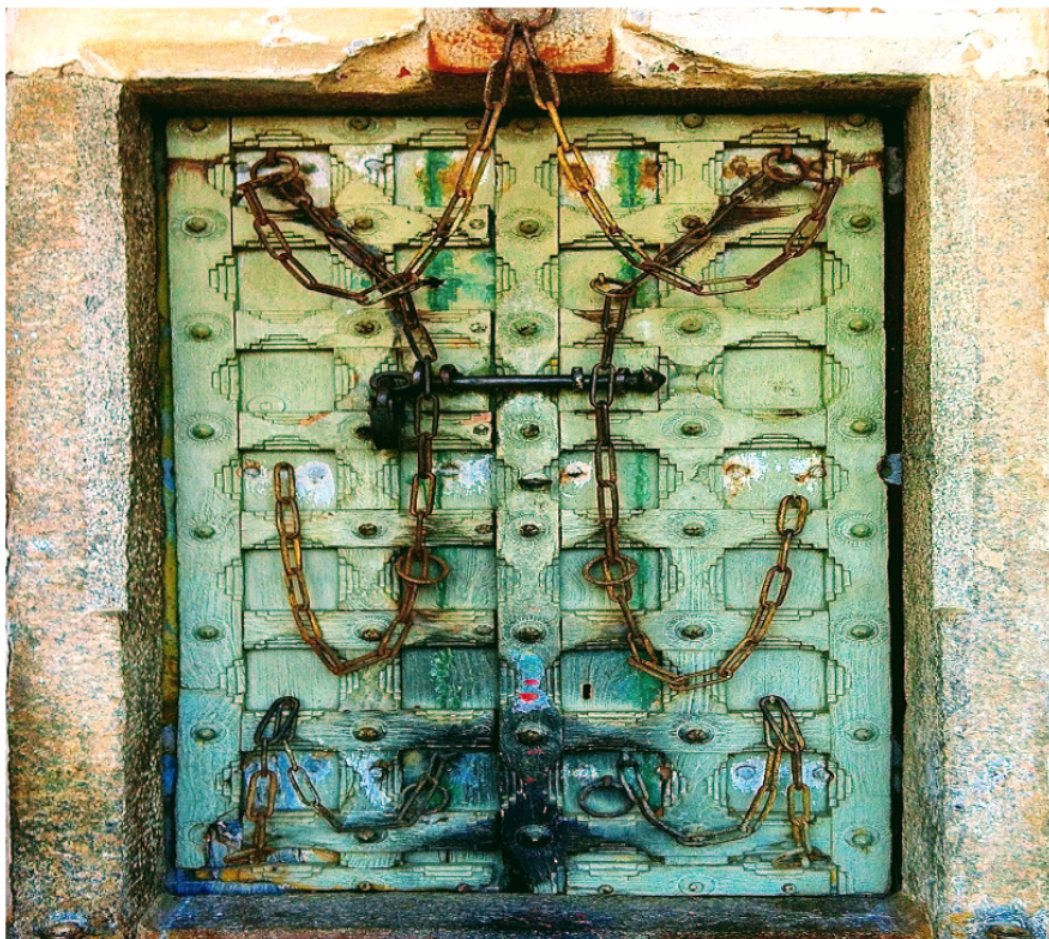


PhD COURSE

UNIVERSITY OF BERGEN
AUGUST 4-26 2024



EFFECTS OF LAWFARE

COURTS AND LAW AS BATTLEFIELDS FOR SOCIAL CHANGE

GENERAL TRACK & SPECIAL TRACKS on:
DEMOCRACY, AUTOCRATISATION and RESISTANCE
INDIGENOUS PEOPLES AND THE LAW: COLONIALISM AND CLIMATE

The course is organised by LawTransform (CMI-UiB Centre on Law & Social Transformation), **Department of Government, UiB**, and sponsored by the Research Council of Norway through the project *INTPART/Autocratization Dynamics: innovations in research embedded, student led learning*.

Effects of Lawfare: Courts and Law as Battlegrounds for Social Change

In all parts of the world, complex webs of legal norms and institutions - global, national, and local - regulate our societies and lives, and courts and law are increasingly important arenas for political struggle. Constitutional reforms and international treaties aim to transform social dynamics from above and achieve political goals by changing governance structures and strengthen - or weaken - protection of citizens' rights. Individuals and groups engage in legal mobilisation from below to seek justice for their cause. In either case, myriad international activists and experts are ready to engage with local partners, creating dense global networks of actors, legal norms, and adjudicative institutions. In this context, it is urgent to better understand law as a political field. What is the transformative potential in the turn to rights and law? Does it provide institutional spaces for the voices of marginalised groups and tools that can provide political leverage? Or does it, rather, demobilise and depoliticize struggles in ways that exacerbate unequal power-relations, and provide tools for autocrats? These are urgent issues on which there are deep disagreements in the literature. The course offers an introduction to the scholarly debates on the potential and limits of law as an instrument of social change, and opportunities to engage with some of the foremost scholars in the field, and international research projects currently seeking more compelling answers to these questions.

The course combines

- **in person public seminars** that form part of the [Bergen Exchanges on Law & Social Transformation \(#BeEx2024\)](#) 12-23 August.
- Real-time **online seminars** specifically designed for the course
- individual and group **mentoring sessions** with relevant researchers
- **group work**
- individual **presentations** with feedback on projects

The Bergen Exchanges on Law & Social Transformation is an international conference that forms an integral part of the PhD course. You will have the opportunity to participate in discussions with leading scholars in the field in academic sessions as well as during social events. A focus areas of the BeEx2025, and a special trackS of the PhD Course is **DEMOCRACY, AUTOCRATIZATION and RESISTANCE** and **INDIGENOUS PEOPLES AND THE LAW: AUTHORITARIAN REGRESSION, CLIMATE AND COLONIALISM**. Other topics include: **GENDER & SEXUALITY; DRUG POLICY & ENVIRONMENTAL CRIMES, PROTEST POLITICS; CORRUPTION & DEMOCRACY, CLIMATE LITIGATION; INDIGENOUS RIGHTS; CHILD RIGHTS & CHILD PROTECTION; ARTIFICIAL INTELLIGENCE; FILM AS POLITICAL STRATEGY; TRANSITIONAL JUSTICE; RIGHTS OF NATURE & CLIMATE POLITICS; CORRUPTION, REPRODUCTIVE JUSTICE; MIGRATION; and LawTransform@10: RESEARH AGENDAS FOR THE NEXT DECADE** In seminars, keynotes, and roundtables we examine a broad field: the the centrality of law in struggles over democracy and in autocrats' strategies for power and control, including why academic freedom, "gender ideology", the family and child rights have become central battlefields for autocrates ization dynamics. We will analyse the economics of autocratization and it legal underpinnings; drug policy and dynamics of criminalization; criminal insanity laws and the synergies of art, protest and legal contestations in contemporary political struggles. We will analyse legal strategies employed in complex contestations over indigenous rights, natural resources, and climate change policies; the role of truth commissions - and much more (see the [#BeEx 2024 program](#).)

The PhD course has a **GENERAL TRACK** where empirical examples are drawn from across the range of social and legal fields discussed in the BeEx2024 exchanges, including child rights, inequality, AI and law, gender, sexuality and health, democracy, climate politics, land rights, indigenous rights and transitional justice. You can read more on our special tracks here: **DEMOCRACY, AUTOCRATIZATION & RESISTANCE** and **INDIGENOUS PEOPLES AND THE LAW: AUTHORITARIAN REGRESSION, CLIMATE AND COLONIALISM**

For most of the course all students will be in the same class, while in some sessions the tracks meet separately to allow a deeper focus on particular forms of legalised contestation. Group work and student presentations are also organised within the tracks.

In addition to the mandatory **readings** for each session, you should compose a **personal reading list of 500 pages** from the recommended readings, which provide material for further reading related to the different parts of the course. [SEE THE READING LIST HERE](#)

Students will receive 3 ECTS by:

- participating in the course (80% of the sessions)
- submitting a paper abstract (150-300 words) and an additional reading list
- giving a presentation of their own work

Students are awarded an additional 7 ECTS if they submit a paper (4,000-6,000 words by 15 October 2024. (the paper must be related to the course and can form part of the PhD thesis provided this is not a problem for your home institution).

Postdoctoral researchers and MA level students will be accepted if space permits. The PhD course is open to applicants from Norwegian and international institutions. Participation is free of charge, but applicants must pay their own travel and accommodation.

Program for PhD course 4-26 August 2025

(with a preliminary meeting on Monday 24 June)

Effects of Lawfare

Courts and law as battlegrounds for social change

Course leaders:

Siri Gloppen (University of Bergen/UiB)

Danielle Rached (University of Sao Paulo, Brazil)

Lise Rakner (University of Bergen)

Rachel Sieder (CIESAS, Mexico)

Ana Braconnier (CIESAS, Mexico/URL Guatemala)

Course Coordinator:

Ana Côrtes (contact for students ana.cortes@uib.no)

Lecturers include

Aaron Spitzer (University of Bergen)

Angana Chatterji (UC Berkeley)

Bruce Wilson (University of Central Florida)

Catarina Barbieri (FGV Law School, Sao Paulo, Brazil)

Chris Faulkner (U.S. Naval War College)

Daniel M. Brinks (University of Texas, Austin, USA)

Eva Fjellheim (University of Tromsø)

Kim Lane Scheppele (Princeton University, USA)

Kristin Sandvik (University of Oslo/PRIO)

Malcolm Langford (University of Oslo, Norway)

Maria Popova (McGill University, Canada)

Maya Unnithan (University of Sussex)

Michael McCann (University of Washington, USA)

Namita Wahi (Centre for Policy Research, India)

Rachel Cichowski (University of Washington, USA)

Raquel Pimenta (FGV Law School, Sao Paulo, Brazil)

Tatiana Alfonso (CIDE Mexico)

Thomas M. Keck (Syracuse University)

PROGRAM

Preparatory module		
* plenary meeting with presentations of students (Elevator Pitch) Monday 25th June * introduction to group-work on reflection note to be submitted by Monday 12th August		
Individual mentoring session will be scheduled during the course		
5 + 12-16 August, daily 15:00 – 19:00 Digital student-only module – general and tracks		
Monday 5 August		
15:00 - 19:00	Welcome Introducing Lawfare: Concepts, approaches Introduction to the track (separate sessions) - General track - Democracy, autocratization and resistance -	Siri Gloppen Siri Gloppen Danielle Rached / Lise Rakner
Monday 12 August		
15:00 - 16:45 17:00 - 19:00	The role and functioning of courts - Judicial review - Judicial independence - What decides how judges rule? Judicial behaviour and judicial interpretation Social movements and legal mobilisation	Siri Gloppen Michael McCann
Tuesday 13 August		
15:00- 16:15 16:30 - 17:45 18:00 - 19:00	Effects of law from constitutions to litigation Research methods in empirical legal studies Autocratization, Indigenous Peoples and Climate Justice :	Dan Brinks Malcolm Langford Danielle Rached

Wednesday 14 August

15:00- 19:00	General Track	Democracy & Autocratization track
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Thursday 15 august

15:00- 19:00	General Track	Democracy & Autocratization track
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Friday 16 August - Publication advice / ethics

15:00 - 17:00	Academic writing and publishing with peer-reviewed journals	Catarina Barbieri
17:15 - 19:00	Research ethics & research Clearance	

1 – 23 August, daily 9:00 – 19:00 - Bergen Exchanges

BERGEN EXCHANGES ON LAW & SOCIAL TRANSFORMATION

- See [separate program](#) for BeEx2025

Readings for the joint sessions:

to be discussed and possibly updated

Monday 5 August:

Session 1: Introducing Lawfare (Siri Gloppen)

Gloppen, Siri (2018) "Conceptualising Lawfare: A Typology & Theoretical Framework" (CMI/LawTransform working paper). (31 pages)

Gloppen, Siri, Thalia Gerzo and Nic van de Walle (2022) "Legal Strategies Constitutional, Administrative, Judicial, and Discursive Lawfare". In Arriola, L., L. Rakner and N. van de Walle (2022, forthcoming): *Democratic Backsliding in Africa? Autocratization, Resilience, and Contention*. Oxford University Press. (32 pages)

Handmaker, Jeff, and Sanne Taekema. "O Lungo Drom: Legal Mobilization as Counterpower." *Journal of Human Rights Practice* 15.1 (2023): 6-23.

Hirschl, Ran (2023) "The Global Expansion of Judicial Power" in Lee Epstein et al (Eds). *The Oxford Handbook of Comparative Judicial Behaviour*. Oxford University Press.

Monday 12 August:

Session 1: The role and functioning of courts; Judicial review; Judicial independence; What decides how judges rule? Judicial behaviour and judicial interpretation (Siri Gloppen)

Epstein, Lee et al. (2023). "Introduction to the Study of Comparative Judicial Behaviour" in Lee Epstein et al (Eds). *The Oxford Handbook of Comparative Judicial Behaviour*. Oxford University Press.

Epstein, Lee & Knight, Jack (2023). "How Personal Motivations Affect Judges' Decisions" in Lee Epstein et al (Eds). *The Oxford Handbook of Comparative Judicial Behaviour*. Oxford University Press.

Tiede, Lydia Brashear (2023). "Selecting Judges" in Lee Epstein et al (Eds). *The Oxford Handbook of Comparative Judicial Behaviour*. Oxford University Press.

Pérez-Liñán, Aníbal & Castagnola, Andrea (2023). "Judicial Tenure and Retirements" in Lee Epstein et al (Eds). *The Oxford Handbook of Comparative Judicial Behaviour*. Oxford University Press.

Marianne Tøraasen (forthcoming) 'A good judge has no sex'? Understanding judicial gender representation with insights from Haiti

Keck, Thomas M., & Logan Strother (2016). "Judicial impact." Oxford research encyclopedia of politics.

United Nations Office on Drugs and Crime. "General issues. Judicial independence as a fundamental value of the rule of law and of constitutionalism".

<https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-14/key-issues/1--general-issues--judicial-independence-as-a-fundamental-value-of-the-rule-of-law-and-of-constitutionalism.html>

United Nations Office on Drugs and Crime. The main factors aimed at securing judicial independence.

<https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-14/key-issues/1--the-main-factors-aimed-at-securing-judicial-independence.html>

Session 2: Social movements and legal mobilisation (Michael McCann)

Please prioritize: Kurban, Dilek. (2020). Introduction. In Limits of Supranational Justice - The European Court of Human Rights and Turkey's Kurdish Conflict. Cambridge University Press.

Epp, Charles R. (1998) The rights revolution: Lawyers, activists, and supreme courts in comparative perspective. Chicago: University of Chicago Press. (Chapters 1,2,11) (33 pages)

McCann, Michael (2008) Litigation and Legal Mobilization. The Oxford Handbook of Law and Politics. Edited by Gregory A. Caldeira, R. Daniel Kelemen, and Keith E. Whittington. (20 pages)

McGrath, Allison R. (2015), "Litigating Change? Social Movements and the Court System" Sociology Compass 9:2 128-139. (11 pages)

Sabel, Charles, and William Simon. (2004). "Destabilization Rights: How Public Law Litigation Succeeds." Harvard Law Review 117:1016. (85 pages)

Tuesday 13 August:

Session 1: Effects of law from constitutions to litigation

Albert, R., Barak Corren, N., Brinks, D. M., Chilton, A., Dixon, R., Elkins, Z., ... & Versteeg, M. (2024). Which Constitutional Provisions Are Most Important?. Available at SSRN.

Botero, Sandra, Daniel M. Brinks, and Ezequiel A. Gonzalez-Ocantos. "Working in New Political Spaces: The Checkered History of Latin American Judicialization." *The Limits of Judicialization: From Progress to Backlash in Latin America*. Cambridge University Press, 2022. 1-38.

Rodríguez Garavito, C. (2011). "Beyond the Courtroom: The Impact of Judicial. Activism on Socioeconomic Rights in Latin America." Texas Law Review 89: 1669-1698. (29 pages)

Fernández-Milmanda, Belén, et al. "A Multilevel Approach to Enforcement." *The Politics of Institutional Weakness in Latin America*. Cambridge University Press, Cambridge (2020): 183-207.

Session 2: Research methods in empirical legal studies

Langford, Malcolm. "Mixed methods in human rights research." *Research Methods in Human Rights*. Edward Elgar Publishing, 2024. 292-320

Lie, Runar Hilleren, and Malcolm Langford. "The Computational Turn in International Law." *Nordic Journal of International Law* 93.1 (2024): 38-67.

Brinks, Dan (forthcoming). Grasping Judicial Power: Concepts and Measures.

Gloppen, Siri and Rachel Sieder, (forthcoming) "Interview fieldwork & observational methods in constitutional law" in Malcolm Langford and David Law *Handbook on Research Methods in Constitutional Law*. Edward Elgar Publishing,

Session 3: Autocratization, Indigenous Peoples and Climate Justice :

Machado, M. R. de A., Vitale, D., & Rached, D. H. (2023). Indigenous women against Bolsonaro's government in Brazil: resisting right-wing authoritarianism and demanding climate justice. In *Feminist frontiers in climate justice gender equality, climate Change and rights*. Cheltenham: Edward Elgar

Rached, Danielle Hanna, Marco Antônio Moraes Alberto, and Bernardo Andreiuiolo Tagliabue. "Environmental Authoritarianism: A Case Study of the Bolsonaro Government (2019-2021)." *VRÜ Verfassung und Recht in Übersee* 55.4 (2023): 542-571.

Wednesday 14 and Thursday 15 August: TRACK SESSIONS

Friday 16 August:

Research ethics & research Clearance

Hossain, Naomi, and Patta Scott-Villiers. "Ethical and methodological issues in large qualitative participatory studies." *American Behavioral Scientist* 63.5 (2018): 584-603.

Davis, J. M., & Wilfahrt, M. (2024). Enumerator Experiences in Violent Research Environments. *Comparative Political Studies*, 57(4), 675-709. <https://doi.org/10.1177/00104140231178735>

Groot, Barbara, Annyk Haveman, and Tineke Abma. "Relational, ethically sound co-production in mental health care research: epistemic injustice and the need for an ethics of care." *Critical Public Health* 32.2 (2022): 230-240.