

**Course Outline**

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<b>COURSE:</b>	<b>LAWS 4601A – Transnational Law and Human Rights</b>
<b>TERM:</b>	<b>WINTER 2019</b>
<b>PREREQUISITES:</b>	<b>LAWS 2908, 0.5 credit from LAWS 3503 or LAWS 3602 and Fourth Year-Honours standing</b>
<b>CLASS:</b>	<b>Day &amp; Time: Tuesdays, 8:35am – 11:25am</b>
	<b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR: (CONTRACT)</b>	<b>Dr. Kirsten Van Houten</b>
<b>CONTACT:</b>	<b>Office: B442 Loeb Building (Contract Instructor’s Office)</b>
	<b>Office Hrs: By appointment only</b>
	<b>Email: <a href="mailto:kirstenvanhouten@cunet.carleton.ca">kirstenvanhouten@cunet.carleton.ca</a></b>

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**CALENDAR COURSE DESCRIPTION**

Examination of the role of law in addressing human rights issues that transcend traditional categories of domestic and international law; the potential and limits of law in addressing human rights issues; the growth of transnational approaches to law and human rights.

**COURSE DESCRIPTION**

This course explores contemporary Canadian and international human rights issues in relation to transnational law. The course begins by providing students with the foundation to understand and apply transnational legal concepts and procedures. It then goes on to explore these concepts and features in relation several human rights themes including mining, arms deals, and intellectual property law. It concludes by considering the broader application of human rights norms in Canada including recently adopted legislation ratifying the United Nations Declaration of the Rights of Indigenous Peoples and ongoing challenges in protecting economic, social and cultural rights.

**REQUIRED TEXTS**

Course materials are available on ARES.

**CELL PHONE/LAP TOP POLICY**

Cell phones **MUST BE** turned OFF and stowed away in a bag during class. They **CANNOT** be on your desk or in a pocket on your person. Lap tops maybe used in the classroom but students are required to use good laptop etiquette; surfing the web, playing on social media distract you and your fellow students

**EVALUATION****(All components must be completed in order to get a passing grade)**

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

**ASSESSMENTS:**

Participation:	10%
Human Rights Brief assignment:	20%
- due either 5 or 12 February (pick one).	
Group Presentation:	25%
Feedback on Group presentation	5%
Final Essay (due: in class April 9, 2019)	40%

**ASSESSMENT INSTRUCTIONS:**

You are given a choice of dates for the human rights brief and the group presentation. **When a student chooses not to complete an assignment by an earlier deadline and then finds themselves unable to make a later deadline – for any reason – NO EXTENSION WILL BE GIVEN. Students wishing to avoid the possibility of receiving a ‘0’ for either of these assignments should ensure they opt to submit their assignments at the earliest possible date. The choice is yours.**

I cannot guarantee that late assignments will be marked prior to the end of term.

- a. Human Rights Brief:** more information is available on CU LEARN.
- b. Participation:** Effective participation in and outside the classroom contributes to your own and other’s learning. All students should attend as many classes as possible, having done all the readings, and having given some thought to the readings and themes of the course. Out of class discussions, attendance at events (speakers, forums) and on-line exchanges where ideas and concepts about the transnational dimensions of human rights are considered, can also be important to the learning process. Quality of student contributions will be weighted more heavily than quantity.
- c. Group Presentation and Final Essay:** Each student will sign up to do a presentation as part of a group during the first class. The group will present on a specific context (a type of ‘case study’), starting with some primary materials listed in the syllabus (usually reports of human rights organizations), supplemented, as needed with **additional research**. The presentation should educate the class about the particular case or issues raised in the reports/ readings (plus extra research), and then use that case/context to explore the arguments and lines of analyses

pursued by the authors/readings for that week AND/OR other course readings/themes as relevant. Presentations should also draw on relevant case law whenever possible.

Further instructions will be made available later in the course.

You will receive a mark for the group presentation AND a mark for the final essay. Your group presentation mark will be comprised of a mark I award (worth 20%) and an additional 5% reflecting the marks given by your peers (more information to be provided).

Your **Final Essay** will be based on the topic of the group presentation but will be written individually and in which you provide additional commentary to address a theme or question provided in the assignment instructions (which will be made available and discussed further later in the class).

#### **d. Feedback on Group Presentation**

The quality of your feedback on the group presentations will ALSO be assessed (worth 5%) to ensure that students give fair consideration and thoughtful reasons for awarding marks.

**Feedback on group presentations is due at the beginning of class the week following your presentation**

### **SCHEDULE & READINGS**

WEEK	TOPIC	ASS'GTS DUE
Week 1: January 8	<b>Introduction to the Course</b>	
Week 2: January 15	<p><b>Introduction to transnational dimensions of human rights.</b></p> <ul style="list-style-type: none"> <li>▪ “The Impact of Canadian Mining in Latin America and Canada’s Responsibility: Executive Summary of the Report submitted to the Inter-American Commission on Human Rights”, Working Group on Mining and Human Rights in Latin America, pp. 1-5; 10-24;</li> <li>▪ “Gold’s Costly Dividend: Human Rights Impacts of Papua New Guinea’s Porgera Gold Mine”, Human Rights Watch report, 2011; pp. 1-34; 38-40; 43-55; 62-72.</li> </ul>	
Week 3: January 22	<p><b>Conceptualizing Transnational Dimensions of Human Rights</b></p> <ul style="list-style-type: none"> <li>• Sally Merry. 2006. “New Legal Realism and the Ethnography of Transnational Law”, <i>Law &amp; Social Inquiry</i> 31(4): 975-995.</li> <li>• Margaret E Keck and Kathryn Sikkink. <i>Activists Beyond Borders: Advocacy Networks in International Politics</i> Ch. 1, “Transnational Advocacy Network in International Politics: Introduction”, pp. 8-37;</li> <li>• Rob Nixon. 2011. <i>Slow Violence and the Environmentalism of the Poor</i>, chapter 3: “Pipedreams: Ken Saro Wiwa Environmental Justice and Micro-Minority Rights”, 103-122;</li> </ul>	

<p>Week 4: January 29</p>	<p><b>Conceptualizing Transnational Dimension of Human Rights Part II: Human Rights and/as Regulation</b></p> <ul style="list-style-type: none"> <li>• Fact Sheet, International Bill of Rights AND review in particular article 6, ICCPR (CU Learn)</li> <li>• Hilary Charlesworth. 1998. "The Mid-Life Crisis of the Universal Declaration of Human Rights" <i>Washington and Lee Law Review</i> 55: 781-796;</li> <li>• Hilary Charlesworth. 2017. "A Regulatory Perspective on the International human Rights system" in Peter Drahos, <i>Regulatory Theory</i> Australia National University, open access: Stable URL: <a href="http://www.jstor.org/stable/j.ctt1q1crtm.31">http://www.jstor.org/stable/j.ctt1q1crtm.31</a></li> </ul>	
<p>Week 5: February 5</p>	<p><b>United Nations human rights system: 'Charter system' and special procedures</b> <b>Human Rights Brief 1 DUE</b></p> <ul style="list-style-type: none"> <li>• "International Human Rights and the International Human Rights System", handbook produced by Asia Pacific Forum, (uploaded and available on CU LEARN), READ: Chapters 4 ("The United Nations charter-based system: An Overview") pp. 19-26; Ch. 5 ("Human Rights Council") pp. 27- 32; Ch. 6 ("Universal Periodic Review), pp. 37-44; Ch. 7 Special Procedures, pp. 47-54.</li> <li>• Michael Kirby. 2010. 'United Nations Special Procedures: A Response to Professor Hilary Charlesworth', <i>Australian Yb of Int Law</i> 29: 22-25.</li> <li>• Jane K. Cowan and Julie Bilaud. 2015. "Between learning and schooling: The politics of Human Rights Monitoring at the Universal Period Review", <i>Third World Quarterly</i> 36(6): 1175-1190</li> <li>• "UN Report Slams Canada's human rights record". <a href="https://www.thestar.com/news/canada/2015/07/23/anti-terror-bill-not-in-keeping-with-canadas-international-obligations-un.html">https://www.thestar.com/news/canada/2015/07/23/anti-terror-bill-not-in-keeping-with-canadas-international-obligations-un.html</a></li> <li>• Human Rights Council (2018) "Report of the Working Group on the Universal Periodic Review: Canada" <a href="https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/210/82/PDF/G1821082.pdf?OpenElement">https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/210/82/PDF/G1821082.pdf?OpenElement</a></li> </ul>	<p>Human Rights Brief 1 DUE</p>
<p>Week 6: February 12</p>	<p><b>United Nations Human Rights Treaty System Part II: Human Rights Brief 2 DUE</b></p> <ul style="list-style-type: none"> <li>• "International Human Rights and the International Human Rights System", handbook produced by Asia Pacific Forum, (uploaded and available on CU LEARN), <ul style="list-style-type: none"> <li>○ READ: Chapter 10: "The treaty-based system: An Overview", pp. 63 - 67;</li> </ul> </li> </ul>	<p>Human Rights brief 2 due</p>

	<ul style="list-style-type: none"> <li>• “Simple Guide to the UN Treaty Bodies”, International Service for Human Rights, pp. 1-35;</li> <li>• Susanne Zwingel. 2013. “Translating international women’s rights norms: CEDAW in context”, in Caglar, Prugle and Zwingel eds. <i>Feminist Strategies in International Governance</i>. Routledge, Pp111-123.</li> <li>• Human Rights Council (2017) “Report of the Working Group on the Universal Periodic Review: Guatemala” <a href="https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/000/13/PDF/G1800013.pdf?OpenElement">https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/000/13/PDF/G1800013.pdf?OpenElement</a></li> <li>• Human Rights Watch “Events of 2017: Guatemala” <a href="https://www.hrw.org/world-report/2018/country-chapters/guatemala">https://www.hrw.org/world-report/2018/country-chapters/guatemala</a></li> </ul>	
February 19	READING WEEK – NO CLASS	
Week 7: February 26	<p><b>State Obligations and Human Rights Protections</b></p> <ul style="list-style-type: none"> <li>- Paulina Garcia-del Moral and Megan Alexandra Dernasnah. 2014. “A Feminist challenge to the gendered politics of the public/private divide: on due diligence, domestic violence and citizenship” <i>Citizenship Studies</i> 19(6-7): 661-675;</li> <li>- Costas Douzinas. 2002. “The End (s) of Human Rights”, <i>Melbourne University Law Review</i> 445-454 [open access].</li> <li>-</li> </ul>	
Week 8: March 5	<p><b>Mining and Human Rights</b></p> <ul style="list-style-type: none"> <li>• *James Ferguson. 2006. “Governing Extraction: New Spatializations of Order and Disorder in Neoliberal Africa” , ch. 8 in <i>Global Shadows: Africa in the Neoliberal World Order</i> Durham and London: Duke University Press), pp. 194-210</li> <li>• Rob Nixon. 2011. <i>Slow Violence and the Environmentalism of the Poor</i>, Introduction, pp. 1-22;</li> <li>• Paula Butler. 2015. <i>Colonial Extractions: Race and Canadian Mining in Contemporary Africa</i>. (U Toronto Press), pp. 21-34; 48-59; 60-63; 72-81</li> <li>• <a href="https://www.theguardian.com/environment/2017/jul/13/the-canadian-company-mining-hills-of-silver-and-the-people-dying-to-stop-it">https://www.theguardian.com/environment/2017/jul/13/the-canadian-company-mining-hills-of-silver-and-the-people-dying-to-stop-it</a></li> </ul> <p><b>Group 1 Presentation Topic</b> Choc v. Hudbay Minerals Inc. &amp; Caal v. Hudbay Minerals Inc: <a href="http://www.chocversushudbay.com/">http://www.chocversushudbay.com/</a></p>	Group 1 presents
Week 9: March 12	<p><b>International initiatives on Business and Human Rights: Global Norms and ‘corporate social responsibility’</b></p> <ul style="list-style-type: none"> <li>• Ruggie, John G. “Global Governance and ‘New Governance Theory’: Lessons from Business and Human Rights”, <i>Global Governance</i> 20: 5-17;</li> </ul>	Group 2 presents

	<ul style="list-style-type: none"> <li>• Hevina S. Dashwerood. 2007. "Canadian Mining Companies and Corporate Social Responsibility: Weighing the Impact of Global Norms" <i>Canadian J of Political Science</i> 129-156;</li> </ul> <p><b>Group 2 Presentation Topic:</b></p> <ul style="list-style-type: none"> <li>• Gold's Costly Dividend: Human Rights Impacts of Papua New Guinea's Porgera Gold Mine", Human Rights Watch report, 2011; pp. 1-34; 38-40; 43-55; 62-72.</li> <li>• Guiding Principles interpretive guide: pp. 1-2; 5-18; 23-27; 31-32;</li> </ul>	
Week 10: March 19	<p><b>Dangerous Business: Canadian Companies Arming Human Rights Abusers in Saudi Arabia and the DRC</b></p> <ul style="list-style-type: none"> <li>• The Arms Trade Treaty (2014). <a href="https://unoda-web.s3-accelerate.amazonaws.com/wp-content/uploads/2013/06/English7.pdf">https://unoda-web.s3-accelerate.amazonaws.com/wp-content/uploads/2013/06/English7.pdf</a></li> <li>• Statutes of Canada 2018. <i>An Act to amend the Export and Import Permits Act and the Criminal Code (amendments permitting the accession to the Arms Trade Treaty and other amendments)</i>. <a href="http://www.parl.ca/DocumentViewer/en/42-1/bill/C-47/royal-assent">http://www.parl.ca/DocumentViewer/en/42-1/bill/C-47/royal-assent</a></li> <li>• Yanik, Yerna, K. (2006). "Guns and Human Rights: Major Powers, Global Arms Transfers and Human Rights Violations" <i>Human Rights Quarterly</i>, 28 (2) p.357-388.</li> </ul> <p><b>Group 3: Anvil Mining Case (DRC)</b></p> <ul style="list-style-type: none"> <li>• Global Witness et. als. (2007). "Kilwa Trial: a Denial of Justice" <a href="http://www.raid-uk.org/sites/default/files/chronology-kilwa.pdf">http://www.raid-uk.org/sites/default/files/chronology-kilwa.pdf</a></li> <li>• Court of Appeal Judgement: <a href="https://www.cci.ca/content/uploads/2015/07/Anvil-Judgment-QCA-English-translation.pdf">https://www.cci.ca/content/uploads/2015/07/Anvil-Judgment-QCA-English-translation.pdf</a></li> </ul> <p><b>Group 4: Saudi Arms Deal</b></p> <ul style="list-style-type: none"> <li>• Simpson, Erika (2016). "Canada's Arms deal with Saudi Arabia" <i>Peace Magazine</i>, 32(2) p.13-14</li> <li>• The Globe and Mail, December 18, 2018. "Explainer: Saudi-Canadian relations and the arms deal: A guide to the story so far" <a href="https://www.theglobeandmail.com/politics/article-saudi-arabia-canada-arms-deal-explainer/">https://www.theglobeandmail.com/politics/article-saudi-arabia-canada-arms-deal-explainer/</a></li> </ul>	Group 3 and 4 Present
Week 11: March 26	<p><b>International Intellectual Property Law: Patent Enforcement and Access to Essential Medicines</b></p> <ul style="list-style-type: none"> <li>• <i>Agreement on Trade Related-Aspects of Intellectual Property Rights</i> <a href="https://www.wto.org/english/docs_e/legal_e/27-trips.pdf">https://www.wto.org/english/docs_e/legal_e/27-trips.pdf</a></li> <li>• <i>Introduction to Canada's Access to Medicines Regime:</i> <a 898="" 903="" 920="" 921"="" data-label="Page-Footer" href="https://www.canada.ca/en/health-canada/services/canada-access-&lt;/a&gt;&lt;/li&gt; &lt;/ul&gt; &lt;/td&gt; &lt;td&gt;Group 5&lt;br/&gt;Presents&lt;/td&gt; &lt;/tr&gt; &lt;/table&gt; &lt;/div&gt; &lt;div data-bbox=">6</a></li></ul>	

	<p>medicines-regime/introduction.html</p> <ul style="list-style-type: none"> <li>• Penner, Mark, D.; Armstrong, Peter, G. (2009). "Removing Barriers? An Overview of the Canadian Access to Medicines Regime" <i>Intellectual Property Journal</i>, 21 (3), p. 357-378.</li> <li>• Holger Hestermeyer (2008). "5. Access to Medicine as a Human Right in the WTO Order" in <i>Human Rights and the WTO: The Case of Patents and Access to Medicines</i>, Oxford University Press.</li> </ul> <p><b>Group 5 Presentation Topic:</b></p> <ul style="list-style-type: none"> <li>• MSF "Access Campaign" <a href="https://msfaccess.org/about-us">https://msfaccess.org/about-us</a></li> <li>• World Health Organisation (2017). "WHO welcomes new agreement between Medicines Patent Pool and Johns Hopkins University on the development of Sutezolid for TB" <a href="https://www.who.int/tb/features_archive/WHO_agreement_development_Sutezolid_TB_treatment/en/">https://www.who.int/tb/features_archive/WHO_agreement_development_Sutezolid_TB_treatment/en/</a></li> </ul>	
Week 12: April 2	<p><b>International Intellectual Property Law: Protecting Indigenous Knowledge</b></p> <ul style="list-style-type: none"> <li>• Article 31 <i>The United Nations Declaration on the Rights of Indigenous Peoples</i></li> <li>• Ansong, Alex, "Is the Protection of Traditional Knowledge Feasible under Intellectual Property Law and Other International Regimes?" <i>The Estey Centre Journal of International Law and Trade Policy</i>, 2018, Vol.19(1), pp.13-29</li> <li>• Robinson, Daniel F. "Legal Geographies of Intellectual Property, 'Traditional' Knowledge and Biodiversity: Experiencing Conventions, Laws, Customary Law, and Karma in Thailand" <i>Geographical Research</i>, November 2013, Vol.51(4), pp.375-386</li> <li>• Teshager Dagne "Law and Policy on Intellectual Property, Traditional Knowledge and Development: Legally Protecting Creativity and Collective Rights in Traditional Knowledge Based Agricultural Products through Geographical Indications" <i>The Estey Centre Journal of International Law and Trade Policy</i>, 2010, Vol.11(1), pp.68-117</li> </ul> <p><b>Group 6 Presentation Topic:</b></p> <ul style="list-style-type: none"> <li>• <i>Bill C-262: An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples</i> <a href="http://www.parl.ca/DocumentViewer/en/42-1/bill/C-262/third-reading">http://www.parl.ca/DocumentViewer/en/42-1/bill/C-262/third-reading</a></li> </ul>	Group 6 Presents
Week 13: April 9	<p><b>Protecting Economic, Social and Cultural Rights in Canada:</b></p> <ul style="list-style-type: none"> <li>• Canadian Human Rights Act Review Panel, <i>Promoting Equality: A New Vision</i> (Ottawa: Department of Justice and Attorney General, 2000)</li> <li>• Martha Jackman &amp; Bruce Porter, "Rights-based strategies to address homelessness and poverty in Canada, the Charter Framework" in Martha Jackman &amp; Bruce Porter, eds, <i>Advancing Social Rights in Canada</i> (Ottawa: Irwin Law Inc., 2014)</li> <li>• Ed Broadbent, "Human rights fragile without economic and social</li> </ul>	

	<p>rights" (2010) 17:2 the CCPA Monitor 6 online: Policy Alternatives &lt;<a href="http://www.policyalternatives.ca">http://www.policyalternatives.ca</a>&gt;.</p> <ul style="list-style-type: none"> <li>• Mary Shaw, "The Politics of Poverty: Why the Charter Does Not Protect Welfare Rights" (2007) 12:1</li> </ul>	
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## **ACADEMIC ACCOMMODATIONS**

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

**Pregnancy obligation:** Please contact me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details, visit the Equity Services website: [carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf](http://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf)

**Religious obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details, visit the Equity Services website: [carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf](http://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf)

**Academic Accommodations for Students with Disabilities:** If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (PMC) at 613-520-6608 or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me as soon as possible to ensure accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable) [www.carleton.ca/pmc](http://www.carleton.ca/pmc)

### **Plagiarism**

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's Academic Integrity Policy can be found at: <http://carleton.ca/studentaffairs/academic-integrity/>

### ***A note on complementarity***

*Students can usefully build on the work they have done or are doing in other courses, and may want to deepen their knowledge of specific issues—for instance in relation to a research essay or thesis—through related papers in separate courses. A significant amount of new work, however, is necessary for*

*the paper to qualify as a distinct contribution. To avoid confusion and possible plagiarism issues (see above), please consult with all instructors involved in advance, preferably with a detailed description or with a copy of the other paper(s) that will be built upon.*

### **Survivors of Sexual Violence**

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: [carleton.ca/sexual-violence-support](http://carleton.ca/sexual-violence-support)

### **Accommodation for Student Activities**

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

For more information on academic accommodation, please contact the departmental administrator or visit: [students.carleton.ca/course-outline](http://students.carleton.ca/course-outline)

### **Department Policy**

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

<http://carleton.ca/law/current-students/>