

COURSE: LAWS 4601 A (Transnational Law and Human Rights)

TERM: FALL 2020

PREREQUISITES: One of LAWS 3503 or LAWS 3602

CLASS: Day & Monday 2.35 - 5.25 pm
Time:
Room: All Courses in the Fall 2020 term are offered online. The seminars in this course will be run “live”, online via BigBlueButton or Zoom conferencing platform during our regularly scheduled class time (Please check cuLearn for more information). Other elements of the course will be accessible via cuLearn.

INSTRUCTOR: Hembadon IYORTYER Oguanobi, PhD
(CONTRACT) (Hemba)

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:
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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. (From the Undergraduate Calendar)

COURSE DESCRIPTION

The way TNCs act is akin to feudal lords in the middle ages, in that they exercise largely unfettered power over so many aspects of our lives (Korten, 2006).

This course will explore the role of Transnational Corporations (TNCs) in societies around the world; how TNCs make profits and whose human rights are violated in the course of TNCs conducting business. In particular, students will unpack contemporary issues/systems/processes that create intellectual ideas for border-crossing movements. The course will create a space for students to learn how to appreciate transnational law as a programmatic development of systems when applying human rights to minorities and vulnerable populations. In this course, we will discuss the effects of the activities of transnational corporations in/on our environment and

different communities in society, including children, while paying close attention to social justice issues. In weeks 5 and 7 special attention will be given to exploring what role the pharmaceutical and biotechnological TNCs play in the access to medicines debate and the right to health. Ultimately, students in this course will be introduced to, and expected to engage with different legal issues, discourses, conversations and critical commentaries as a way to understanding the various intricacies surrounding the intersections/dimensions of/between transnational law and human rights.

COURSE OBJECTIVES

By the end of this course, students will be able to:

1. Demonstrate an understanding of critical issues around the dynamics of TNCs activities and their impact on human rights; (b) Discuss the relevant international strategies aimed at increasing TNCs accountability; (c) Explain what due diligence is and why it is necessary to have structures in place to ensure that TNC respect human rights; (d) Show a collaborative understanding of a variety of issues as they pertain to pharmaceutical TNCs and the right to health.

*Students are expected to critically engage with the course material to develop an understanding of the important issues of TNCs and human rights nations obligations. This will be achieved through differentiated instruction and assessment, in addition to feedback via formative (e.g., self-assessment, peer-assessment, professor input) and summative assessments.

ONLINE COURSE DELIVERY

LAWS 4601 A is offered on cuLearn, a learning management system. You are strongly encouraged to participate in the synchronous (“live”) learning opportunities provided on Monday afternoons at 2.35. If you are unable to participate at this time, please get in touch with the professor (Note that our last class will be on the Friday, 11th December, 2020 on the Monday schedule at 2.35pm).

You will need basic computer and internet navigation skills for this course. The learning and assessment activities will require you to do the following:

- Use an internet browser (e.g., Firefox, Chrome)
- Use the catalogue and databases on the Carleton University library website
- Read text files and watch videos linked on Brightspace
- Participate in small discussion groups with your peers via Zoom, or another mutually agreed upon platform
- Give and receive feedback in an online environment
- Update Google documents (group and individual) to record evidence of weekly activities and learnings.

REQUIRED TEXTS

Course materials are available on ARES, the Carleton Library’s online reserve system.

EVALUATION

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.

SUMMARY OF ASSIGNMENTS

Assignment	% of Final Grade	Due Date	Where to submit?
1. Equity Circle (EC)	50% total		
Equity Contributions	30%	Weekly	Group Google Doc
EC Report	10%	Weekly	Individual Learning Portfolio – EC
Final EC Reflection	10%	Week 10	Individual Learning Portfolio - EC
2. Critical Commentaries	20% total		
Critical Commentary 1	10%	Week 3	cuLearn
Critical Commentary 2	10%	Week 8	cuLearn
3. Exams	30% total		
Exams	30%	Formal Exam Period	To be announced

LATE PENALTIES AND REQUESTS FOR EXTENSIONS




The granting of extensions is determined by the instructor who will confirm whether an extension is granted and the length of the extension. For requests for extensions lasting less than 7 days, please complete the form at the following link and submit it to the instructor prior to the assigned due date: <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>

Extensions for longer than 7 days will normally not be granted. In those extraordinary cases where extensions lasting longer than 7 days are granted, the student will be required to provide additional information to justify the longer extension (up to a maximum of 14 days).

IMPORTANT DATES TO NOTE

September 7, 2020	Statutory Holiday, University Closed
September 9, 2020	Fall Term Begins. Fall and Fall/Winter Classes Begin
October 12, 2020	Statutory Holiday, University Closed
October 26 – 30, 2020	Fall Break, No Classes
December 11, 2020	Fall Term Ends
	Last Day of Fall Term Classes

TYPICAL CLASS SCHEDULE

 (MONDAYS)	 CLASS ACTIVITIES	 DURATION
2.35pm - 3.35pm	Class meetings on Zoom/BigBlueButton Facilitated by the professor	60 minutes
3.35pm - 3.50pm	Break	15 minutes
3.50pm - 4.40pm	Equity circles	50 minutes
4.40pm - 5.00pm	Reconvene to critically analyze/clarify concepts, and engage in a large hub with professor and peers	20 minutes
5.00pm – 5.25pm	Complete EC report What went well (WWW) Could have been better (CHBB) My self-evaluation with an explanation My peer evaluation	25 minutes

1. Each week you will be expected to complete several readings and provide a reading response before class. Reading responses will be done on an Individual Learning Portfolio and with Equity Circles (ECs).
2. Students are encouraged to attend a synchronous (“live”) session with the professor at 2.35 PM on Tuesdays. At this time, the professor will address the class focus each week via Zoom (link provided on cuLearn) using videos, slides, and interactive technologies. Students will be introduced to the task for the week supported by resources, tips, etc. These sessions will be recorded for those students who are unable to attend, and for those who would like to revisit the content.
3. Students are expected to interact with the members of their EC to further explore the weekly reading via their group Google document (further info is provided in the Assignments section).

4. Each week, a weekly task will be assigned to help you progress toward the summative task for this course. Additional videos, news feeds, blogs, newspaper clips will be posted on cuLearn. The weekly tasks will be completed and uploaded by Friday of each week to your Learning Portfolio (more information to follow in the assignments section). The time required to complete the task will vary by the week. Students may choose to collaborate with members of their EC, or other members of the class to complete the weekly tasks. How students communicate (e.g., Google docs, Google Hangouts, Slack, Facebook group, Zoom, etc.) is up to the members of each group. You will have time in Week 2 to meet your fellow EC members and to discuss the various options.

SCHEDULE *(Please note that this reading list may be adapted during the course of the term if there is a need to do so as a way of responding to the learning needs and expectations of students. Note also that each week, the professor may present optional videos, newspapers, blogs on the cuLearn platform as a way of engaging students further)

WEEK 1: September 14, 2020 - Introduction

Readings:

Valentini, L. (2018). Human rights, the political view, and transnational corporations: An exploration. In *Political and Legal Approaches to Human Rights* (1st ed., pp. 168–185). Routledge.

McLeay, F. (2006). Corporate Codes of Conduct and the Human Rights Accountability of Transnational Corporations: A Small Piece of A Larger Puzzle. In O.D. Schutter (Ed.). *Transnational Corporations and Human Rights* (pp. 219–240). London: Hart Publishing.

[COVID-19 and responsible business conduct](#)

[Canada's approach to advancing human rights](#)

WEEK 2: September 21, 2020 – Power, Influence and Responsibility

Readings:

Macleod, S., & Lewis, D. (2004). Transnational corporations: Power, influence and responsibility. *Global Social Policy*, 4(1), 77–98. <https://doi.org/10.1177/1468018104040986>

Arnold, D. (2010). Transnational Corporations and the duty to respect basic human rights. *Business Ethics Quarterly*, 20(3), 371-399. Retrieved August 23, 2020, from <http://www.jstor.org/stable/25702406>

Komanovics, A. (2018). Towards a normative framework: The UN Treaty on transnational corporations, other businesses and human rights. *Corvinus Journal of International Affairs*, 3(3), 28-42.

WEEK 3: September 28, 2020 - Gender: Transnational Corporations, Human Rights and Gender Intersections.

Readings:

Simons, P. (2016). Unsustainable International Law: Transnational resource extraction and violence against women. *Transnational Law and Contemporary Problems*, 26, 415.

Sachseder, J. (2020). Cleared for investment? The intersections of transnational capital, gender, and race in the production of sexual violence and internal displacement in Colombia's armed conflict. *International Feminist Journal of Politics*, 22(2), 162–186.

Banwell, S. (2015). Globalisation masculinities, empire building and forced prostitution: a critical analysis of the gendered impact of the neoliberal economic agenda in post-invasion/occupation Iraq. *Third World Quarterly*, 36(4), 705–722.

	Critical Commentary 1	10%	Week 3	cuLearn
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WEEK 4: October 5, 2020 - Addressing Human Rights and Business: Situating the Transnational Responsibilities of Corporation.

Readings:

Onagh Fitzgerald (2019) Addressing the human rights conduct of transnational corporations through international institutional bypasses, *Transnational Legal Theory*, 10:3-4, 355-384, DOI: [10.1080/20414005.2019.1651123](https://doi.org/10.1080/20414005.2019.1651123)

Bijlmakers, S. (2018). *Corporate social responsibility, human rights and the law* (First edition.). Routledge, an imprint of Taylor and Francis. The legalization of business responsibility for human rights in the evolving field of CSR and business and human rights.

Additional Resources:

UN Guiding Principles on Business and Human Rights,
[GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS](https://www.unhcr.org/refugees/pdf/guiding-principles-on-business-and-human-rights.pdf)

WEEK 5: October 19, 2020 - Pharmaceutical Companies and Access to Medicines I

Readings:

Moon, S. (2013). Respecting the right to access to medicines: Implications of the UN Guiding Principles on Business and Human Rights for the pharmaceutical industry. *Health and Human*

rights, 15(1), 32-43.

Lee, J. Y., & Hunt, P. (2012). Human rights responsibilities of pharmaceutical companies in relation to access to medicines. *The Journal of Law, Medicine & Ethics*, 40(2), 220-233.

Hurst, D. J. (2017). Restoring a reputation: invoking the UNESCO Universal Declaration on Bioethics and Human Rights to bear on pharmaceutical pricing. *Medicine, Health Care and Philosophy*, 20(1), 105-117.

October 26 – 30, 2020 Fall Break, No Classes

WEEK 7: November 2, 2020 - Pharmaceutical Companies and Access to Medicines II

Readings:

Hunt, P., & Khosla, R. (2010). Are drug companies living up to their human rights responsibilities? The perspective of the former United Nations Special Rapporteur (2002-2008). *PLoS Medicine*, 7(9), e1000330.

Khosla, R., & Hunt, P. (2018). Human rights responsibilities of pharmaceutical companies in Relation to Access to Medicines. In *Access to Medicines as a Human Right* (pp. 25–45). University of Toronto Press.

Wu, C. F. (2012). Transnational pharmaceutical corporations' legal and moral human rights Responsibilities in Relation to Access to Medicines. *Asian Journal of WTO & International Health Law & Policy*, 7, 77 -142

WEEK 8: November 9, 2020 - Indigenous Communities, Human Rights and Corporate Social Responsibility

Readings:

Gedicks, A. (2015, Fall). Transnational mining corporations, the environment, and indigenous communities. *The Brown Journal of World Affairs*, 22, 129-152. Retrieved from <https://search-proquest-com.proxy.bib.uottawa.ca/docview/1783018513?accountid=14701>

Horowitz, L. (2015). Culturally articulated neoliberalisation: corporate social responsibility and the capture of indigenous legitimacy in New Caledonia. *Transactions of the Institute of British Geographers*, 40(1), 88–101.

Hanna, P., Langdon, E. J., & Vanclay, F. (2016). Indigenous rights, performativity and protest.

Land Use Policy, 50, 490-506.

Additional resources

Anni Hylton 2019. "Is Canada to blame for human Rights abuses in Guatemala?" The walrus, [Is Canada to Blame for Human Rights Abuses in Guatemala?](#)

[HudBay Operations in Peru and Guatemala: Violence and Repression Found to Result from Mining Company Contracts with State Security Forces](#)

	Critical Commentary 2	10%	Week 8	cuLearn
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WEEK 9: November 16, 2020 - TNCs, Human Rights and Environmental Tragedies

Readings:

Eaton, J. P. (1997). The Nigerian tragedy, environmental regulation of transnational corporations, and the human right to a healthy environment. *Business International Law Journal*, 15, 261.

Bond, P. (2018). Ecological-Economic narratives for resisting extractive industries in Africa', *Environmental Impacts of Transnational Corporations in the Global South (Research in Political Economy, Volume 33)*.

Kavitha, C. (2019). Access to justice under international law: Claims against environmental crimes of transnational corporations", *ELCOP Yearbook of Human Rights*, 2019 ISBN 9789843473721.

WEEK 10: November 23, 2020 - Child Labour, Human Trafficking and Vulnerability

Readings:

Borges, I. (2016). The responsibility of transnational corporations in the realization of children's rights. *University of Baltimore Journal of International Law*, 5(1), 1-41

Deva, S. (2014). Companies Stand at Bay or enter the water?. *Journal of the Indian Law Institute*, 143-174.

[Ending child labour, forced labour and human trafficking in global supply chains](#)

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Final EC Reflection	10%	Week 10	Individual Learning Portfolio - EC
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WEEK 11: November 30 - Supply-Chain Human Rights Violations

Readings:

Global Witness: [What is Supply Chain Due Diligence?](#)

[OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas](#) pg. 12-19, 78-98.

Nolan, J. (2017). Business and human rights: The challenge of putting principles into practice and regulating global supply chains. *Alternative Law Journal*, 42(1), 42-46.

Partiti, E., & Van der Velde, S. (2017). Curbing supply-chain human rights violations through trade and due diligence. Possible WTO concerns raised by the EU conflict minerals regulation. *Journal of World Trade*, 51(6).

WEEK 12: December 7 - Case studies

Readings:

Papaioannou, A. (2006). The Illegal Exploitation of Natural Resources in the Democratic Republic of Congo: A Case Study on Corporate Complicity in Human Rights Abuses. In O.D. Schutter (Ed.). *Transnational Corporations and Human Rights*(pp. 263–286). London: Hart Publishing.

Lawson-Remer, T.E. (2006). A Role for The International Finance Corporation in Integrating Environmental and Human Rights Standards into Core Project Covenants: Case Study of the Baku–Tbilisi–Ceyhan Oil Pipeline Project. In O.D. Schutter (Ed.). *Transnational Corporations and Human Rights* (pp. 393–426). London: Hart Publishing.

Chapter 13. A Role for The International Finance Corporation in Integrating Environmental and Human Rights Standards into Core Project Covenants: Case Study of the Baku–Tbilisi–Ceyhan Oil Pipeline Project.

WEEK 13: December 11- Pushing the boundaries in the Unseen and Hidden Elements of Transnationalism and Transnational law (Note – Classes will follow the Monday Schedule

Readings

Tófaló, I. (2006). Overt and hidden accomplices: Transnational corporations' range of complicity

for human rights violations. In O.D. Schutter (Ed.). *Transnational Corporations and Human Rights* (pp. 335–358). London: Hart Publishing.

Affolder, N. (2019). Transnational law as unseen law. *The Many Lives of Transnational Law: Critical Engagements with Jessup's Bold Proposal* (Cambridge: Cambridge University Press 2020).

Recap of select topics explored during the course of the term.

EXAMS – More details of this will be posted on cuLearn

ATTENDANCE

Note: Given the COVID 19 situation, classes and practicum may look different than expected. Professors have designed their learning environments to ensure your health and safety while maintaining a high expectation for your active engagement in the course material, your completion of the course expectations, and your mastery of the materials is crucial to your success in this course. Students who regularly miss out on attending the class or fail to collaborate in their EC will struggle to pass the course.

ACADEMIC ACCOMMODATIONS

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows: <https://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf>

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 Department of Equity and Inclusive Communities (EIC): <https://carleton.ca/equity/>

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 Department of Equity and Inclusive Communities (EIC): <https://carleton.ca/equity/>

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 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) <https://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: <https://carleton.ca/registrar/academic-integrity/>

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: <https://carleton.ca/studentssupport/svpolicy/>

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: <https://students.carleton.ca/services/accommodation/>

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

REFERENCES

Korten, D. (2006) The great turning. From empire to earth community. Berrett-Koehler Publishers, San Francisco.