Carleton University

Department of Law and Legal Studies

Course Outline

LAWS 4601 B (Winter) (Transnational

Course: Law and Human Rights)

TERM: Winter 2022-2023

PREREQUISITES: Prerequisite(s): <u>LAWS 2908</u>, 0.5 credit

from LAWS 3503 or LAWS 3602, and fourth-

year Honours

CLASS: Day & Tuesdays 11:35 am – 2:25 pm

Time: (Please refer to the public schedule on

Carleton Central)

Room: 509 Southam (but check Carleton

Central for room change)

INSTRUCTOR: Doris Buss

CONTACT: Office: Loeb D486

Online Wednesdays 12:15 - 1:30 pm via

Office Hrs: zoom *or by appointment
Telephone: 613-520-2600 x. 8011
Email: Doris.buss@carleton.ca

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

This course examines the transnational dimensions of human rights through a focus on human rights and natural resource exploitation. To facilitate our exploration, the focus will be more specifically on mining. Mining companies, many of which are registered as Canadian corporations, are the focus of growing advocacy concerns, and multi-scalar law and policy interventions to address the human rights abuses, and development limitations linked to resource extraction. The various initiatives to address the mining-human rights nexus span multiple scales - transnational, global, international, and local - and regulatory types; state laws, international law, norms, rules, best practices, guiding principles, frameworks. This course will explore mining-related human rights abuses and related challenges arising from transnational resource extraction in the global South, and, in the process, delve deeper into the significance of the 'transnational' in understanding contemporary human rights dynamics.

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

- a. explore and analyze in multiple assignments the transnational dimensions of human rights resulting from resource extraction and the potential for social movement advocacy to redress human rights;
- b. identify and evaluate the underlying assumptions and approaches of some of the various transnational legal and regulatory responses to those human rights issues;
- c. marshal academic arguments, course materials, and the students' own research to an evaluation of transnational legal remedies in a report to assist a non-governmental human rights organization in planning its advocacy strategies; and
- d. Demonstrate engaged participation in an academic course by staying up to date on readings, attending class regulatory, following class discussion (which might include participation, but could also be demonstrated though other means such as incorporating class discussion into written assignments), active participation in all group activities (including classroom small-group work).

<u>Required Text</u>: Course materials are available on ARES and on web addresses provided (but the readings are also easily found through Carleton Library's online catalogue).

<u>Evaluation</u>: Standing in a course is determined by the course instructor subject to the approval 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 (further information is provided in a separate assignment instruction document, uploaded to Brightspace).

1. Selection of Issue, biography of yourself:	Due January 24, 11:30 am	6%
2. Building a human rights approach:	Due February 3, midnight	24%
3. Diagram/flow chart (draft):	Due March 21, midnight	12%
4. Presentation:	Sign up in class	12%
5. Analytical component	Due April 11, midnight	36%
6. Class Participation:		10%
TOTAL:		100

Global ASSESSMENT INSTRUCTIONS (in addition to those found on Brightspace):

F. COMMUNICATING

I have regular office hours and am happy to chat with you during breaks/after class OR you can also make an appointment to see me (via Zoom) outside of class and office hours. I also respond to emails within a few days. BUT PLEASE NOTE: I do not look at email on the weekends or in the evenings.

G. 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/.

^{**}Assignments handed in more than 45 minutes past the due date and time will marked late. Late assignments will be deducted 2 grades/day. Assignments more than three days late will be graded "0". Extensions will only be granted in extreme cases and with appropriate documentation. I cannot guarantee that late assignments will be marked prior to the end of term.

^{**}Extensions for longer than 7 days will normally not be granted.

^{**}Students are required to complete all assignments to pass this course.

Examples of plagiarism include, but are not limited to:

- any submission prepared in whole or in part, by someone else;
- using ideas or direct, verbatim quotations, paraphrased material, algorithms, formulae, scientific or mathematical concepts, or ideas without appropriate acknowledgment in any academic assignment;
- using another's data or research findings without appropriate acknowledgement;
- submitting a computer program developed in whole or in part by someone else, with or without modifications, as one's own; and
- failing to acknowledge sources through the use of proper citations when using another's work and/or failing to use quotations marks.

Plagiarism is a serious offence. More information on the University's Academic Integrity Policy can be found at: https://carleton.ca/registrar/academic-integrity/.

G. **COVID Update**

It is important to remember that COVID is still present in Ottawa. The situation can change at any time and the risks of new variants and outbreaks are very real. There are <u>a number of actions you can take</u> to lower your risk and the risk you pose to those around you including being vaccinated, wearing a mask, staying home when you're sick, washing your hands and maintaining proper respiratory and cough etiquette.

Feeling sick? Remaining vigilant and not attending work or school when sick or with symptoms is critically important. If you feel ill or exhibit COVID-19 symptoms do not come to class or campus. If you feel ill or exhibit symptoms while on campus or in class, please leave campus immediately. In all situations, you must follow Carleton's <u>symptom reporting protocols</u>.

Masks: Carleton has paused the <u>COVID-19 Mask Policy</u>, but continues to strongly recommend masking when indoors, particularly if physical distancing cannot be maintained. It may become necessary to quickly reinstate the mask requirement if pandemic circumstances were to change.

Vaccines: Further, while proof of vaccination is no longer required as of May 1 to attend campus or in-person activity, it may become necessary for the University to bring back proof of vaccination requirements on short notice if the situation and public health advice changes. Students are strongly encouraged to get a full course of vaccination, including booster doses as soon as they are eligible, and submit their booster dose information in <u>cuScreen</u> as soon as possible. Please note that Carleton cannot guarantee that it will be able to offer virtual or hybrid learning options for those who are unable to attend the campus.

All members of the Carleton community are required to follow requirements and guidelines regarding health and safety which may change from time to time. For the most recent information about Carleton's COVID-19 response and health and safety requirements

please see the <u>University's COVID-19 website</u> and review the <u>Frequently Asked Questions (FAQs)</u>. Should you have additional questions after reviewing, please contact <u>covidinfo@carleton.ca</u>.

PLEASE SEE end of course schedule for more information on: University and Departmental Policies on academic accommodations.

SCHEDULE AND READINGS:

Please note the following dates:

January 9 Winter term begins
 February 20 Statutory holiday
 February 21 - 24 Winter Break

WEEK	TOPIC	Assignments
WK 1.	Introduction to Course; Introduction to 'transnational' law and human rights; Why exploitation of	
Jan 10	natural resources	
	a. Carrie Menkel-Meadow, Why and How to Study "Transnational" Law, 1 U.C. Irvine L. Rev. 97	
	(2011): Read pp. 97-120. Available at: https://scholarship.law.uci.edu/ucilr/vol1/iss1/8	
	b. Mining Watch Canada 2022. "'He was murdered': Violence against Kuria High After Barrick	
	takeover of mine", Report on Research in North Mara, Tanzania, Sept 2022, Catherine Coumans,	
	downloaded from: https://miningwatch.ca/publications/2022/10/11/he-was-murdered-	
	<u>violence-against-kuria-high-after-barrick-takeover-mine</u>	
	c. Mining Watch Canada. 2022. "Barrick slapped with Third Lawsuit on Same Human Rights abuses	
	at Tanzanian Mine: 'Business as usual'?" Press Release:	
	https://miningwatch.ca/news/2022/11/23/barrick-slapped-third-lawsuit-same-human-rights-	
	abuses-tanzanian-mine-business-usual	
	d. Barrick Gold. 2022. "Barrick Refutes North Mara Human Rights Allegations", Press release,	
	https://www.barrick.com/English/news/news-details/2022/Barrick-Refutes-North-Mara-	
	Human-Rights-Allegations/default.aspx	
	e. Barrick Gold. 2022. Barrick announces major social, skills and infrastructure investment in	
	Tanzania", 27 May 2022, Press Release: https://www.barrick.com/English/news/news-	

	details/2022/barrick-announces-major-social-skills-and-infrastructure-investment-in-tanzania/default.aspx	
WK 2. Jan 17	 Colonial histories and natural resource extraction a. Jeffrey M. Bartos. 2018 "Mining for Empire: GOLD, AMERICAN ENGINEERS, AND TRANSNATIONAL EXTRACTIVE CAPITALISM, 1889-1914" PhD dissertation, History, University of Montana, 2018; pp. 1-51 (BUT if pressed for time, just read pp 37-51). b. Emilinah Namaganda, K Otsuki, and G Steel. 2022. "Learning from Africana critical theory: A historicized contextualization of the impacts of Mozambique's natural gas project", Extractive Industries and Society 10: 101075: 1-8; c. Victoria Schneider. 2020. "How the legacy of colonialism built a palm oil empire", Mongabay Series: Global Palm Oil. https://news.mongabay.com/2020/06/how-the-legacy-of-colonialism-built-a-palm-oil-empire/ d. https://www.theguardian.com/cities/2017/mar/03/toronto-hidden-history-how-city-built- 	
WK 3 Jan 24	Human rights and global justice: Transnational activism and accounting for resistance. a. *Brooke Ackerly. 2018. Just Responsibility: A Human rights theory of global justice. Oxford University press, pp. 1-15 (Introduction); ch. 6 "The Human Rights Approach to Political Responsibility": pp. 189-217 b. *Balakrishnan Rajagopal. 2003. "International Law and Social movements: Challenges of Theorizing Resistance" 41 Columbia Journal of Transnational Law 397-433	Assignment 1 due at the start of class.
WK 4 Jan 31	 International Human Rights Institutions and natural resources a. Chris Jochnik. "Shifting Power on Business and Human Rights: States, Corporations and Civil Society in Global Governance" in César Rodriguez-Garavito, ed. Business and Human Rights: Beyond the End of the Beginning. Cambridge University Press, pp. 129-137. b. *Priscilla Claeys. 2012. "The creation of new rights by the food sovereignty movement: The challenge of institutionalizing subversion", Sociology 46(5): 844-860 	Assignment 2 due this week: Thursday Feb 3, midnight

	c. Christoph Golay and Adriana Bressa. 2012. "The right to land and other natural resources".	
	Geneva Academy	
	d. Displacement Kolwezi town - https://www.theeastafrican.co.ke/tea/news/east-	
	africa/congolese-town-to-give-way-for-cobalt-mines-4025692	
Wk 5 –	Business activities and International Human Rights	
Feb 7		
	a. John Morrison. 2011. "An overview of current practices and policy relating to business activities	
	and human rights? Some of the implications for corporate 'rule-making'", in I Pies, P Koslowski,	
	eds. Corporate Citizenship and New Governance pp 7-17.	
	b. Ruggie, John G. 2014. "Global Governance and 'New Governance Theory': Lessons from Business	
	and Human Rights', Global Governance 20: 5-17;	
	c. UN Guiding Principles on Business and Human Rights,	
	https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf	
	neipoi j www.ionomioi g zooumento j z ubnoutiono j dutumigi i moi proob uomootine zi vipui	
	d. United Nations Working Group on Business and Human Rights. 2022. Statement on visit to	
	Liberia, https://www.ohchr.org/en/press-releases/2022/11/liberia-put-people-profit-and-	
	ensure-responsible-business-environment-un	
Wk 6	From human rights to Governance to Rules: what place for law	Presentation:
Feb 14		Case study:
	a. Neli Frost, Out with the 'Old', in with the 'New': Challenging Dominant Regulatory Approaches in	Global Witness.
	the Field of Human Rights, European Journal of International Law, Volume 32, Issue 2, May 2021,	2016. Out of
	Pages 507–536, https://doi.org/10.1093/ejil/chab012	Africa: British
	b. Tim Barley. 2018 Transnational Standards and Empty Spaces', Rules without Rights: Land, Labor,	offshore secrecy
	and Private Authority in the Global Economy, Transformations In Governance (Oxford, 2018), pp. 1-25; 31-35	and Congo's
	c. Natural Resource Governance Institute. 2015. "The Resource Curse: The political and economic	missing
	challenges of natural resource wealth", <i>NRGI Reader</i> , March 2015	\$1.5billion.
	(https://resourcegovernance.org/sites/default/files/nrgi Resource-Curse.pdf)	than a H
	(—————————————————————————————————————	(https://www.glo
	d. https://www.africanexponent.com/post/18261-uk-court-exposes-corrupt-mining-giants-	balwitness.org/en
	exploiting-african-nations	/campaigns/dem
		ocratic-republic- congo/out-of-
	e.	

Wk 7	f.	years?utm term=62d932df26449838b37a3e468d6a9cc5&utm campaign=GreenLight&utm sour ce=esp&utm medium=Email&CMP=greenlight email https://www.reuters.com/world/africa/congo-auditor-says-400-million-went-missing-state-mining-company-2022-06-04/ ING WEEK - ** NO CLASS ***	
Feb 21			
WK 8 Feb 28		g, conflict and 'conflict mining' LeBillon, P. 2006. "Fatal transactions: Conflict Diamonds and the (Anti)Terrorist Consumer"	Presentation: IPIS Armed
	a.	Antipode 38(4): 778-801;	Conflict, insecurity and mining in eastern
	b.	Eliana Cusato (2021) Transnational law and the politics of conflict minerals regulation: construing the extractive industry as a 'partner' for peace, Transnational Legal Theory, 12:2, 269-293, DOI: 10.1080/20414005.2021.1967683	DRC: Reflections on the nexus between natural
	C.	OECD Due Diligence Guide for Responsible Supply Chain of Minerals from Conflict-Affected and High Risk Areas, 3d ed. http://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf	resources and armed conflict.
	d.	Global Witness. 2008 "Faced with a gun, what can you do?" War the the Militarisation of Mining in Eastern Congo. Pp. 5-21	
	e.	$\frac{https://www.gao.gov/products/gao-21-531}{responsible for reviewing implementation of s.~1502~provides~a~good~overview~of~how~s.~1502~works~)}$	
	f.	Global Witness. "Can the EU hold companies to account?" https://www.globalwitness.org/en/campaigns/holding-corporates-account/can-eu-hold-companies-account/	
	g.	Review: The EU Conflict Minerals Regulation Explained: https://ec.europa.eu/trade/policy/infocus/conflict-minerals-regulation/regulation-explained/	

	 Galit A. Sarfaty. 2015. "Shining Light on Global Supply Chains: Harvard International Law Journal 56: 419-441; 	Due Diligence assessment https://ipisresear
	 b. Marissa E. A. A. M. Ooms (2022) Risk-based due diligence reporting in global mineral supply chains and the rule through transparency, The Theory and Practice of Legislation, 10:1, 48-66, DOI: 10.1080/20508840.2022.2033943 c. Global Witness "What is supply chain due diligence" Issue brief: https://www.globalwitness.org/en-gb/campaigns/what-supply-chain-due-diligence/ d. https://www.ohchr.org/en/press-releases/2018/05/un-experts-condemn-deadly-police-response-protest-against-copper-smelting 	ch.be/publication /evaluating-due- diligence- programs-for- conflict-minerals/
WK 10 Mar 14	 a. Ronan Shamir. 2010. "Capitalism, Governance, and Authority: The Case of Corporate Social Responsibility", Annual Review of Law and Social Science 6: 531-553 b. Benjy Radcliffe. 2009. The corporation as a person: Legal fact or fiction?, <i>TheCourt.ca</i> blog 	Presentation: RAID. 2021. The Road to ruin? Electric Vehicles and Workers'
	 (http://www.thecourt.ca/the-corporation-as-a-person-legal-fact-or-fiction/) c. https://news.mongabay.com/2022/01/liberian-villagers-threaten-to-leave-mining-agreement-citing-broken-promises/ 	rights abuses at DR Congo's industrial cobalt mines. https://www.raid - uk.org/blog/cobal
		t-workers- exploitation Presentation 2: Jayasinghe, Namalie; Jiménez de la

		Ruiz, Maritza; Billima- Mulenga,
		Tamara;
		Cheelo,
		Mwiinga,
		"Accountable to Whom?
		Promoting
		Women's Rights
		through
		Extractive
		Industries
		Revenue
		Accountability,"
		Oxfam America
		Research
		Backgrounder
		series (2019):
		https://www.oxfa
		mamerica.org/e
		xplore/research-
		publications/acc
		ountability- extractive-
		industries/
WK 11	No Class: Extended office hours and assignment work time	iridustrics/
Mar 21	The class. Extended office flours and assignment work time	
WK 12	Social License, Free and Informed Consent, Community Consultation	Presentation:
Mar 28		Hans Merket &
	a. David Szablowski (2010) "Operationalizing Free, Prior, and Informed Consent in the Extractive	Elise Foubert.
	Industry Sector? Examining the Challenges of a Negotiated Model of Justice", Canadian Journal of	2019. Dissecting
	Development Studies 30:1-2, 111-130, DOI: 10.1080/02255189.2010.9669284	the social license
	b. Suleman Dauda. 2022. "Earning a social license to operate (SLO): A conflicted praxis in sub-	to operate: Local
	Saharan Africa's mining landscape?," The Extractive Industries and Society, 11: 1-8	community
		perceptions of

	c. Initiative for Responsible Mining Assurance, Responsible Mining Standard-STD-001, 2018, chapter 2. 2 and 2.3.	industrial mining in northwest Tanzania.
WK 13	Rise of Domestic "Supply chain" or Due Diligence legislation	Presentations
Apr 4	 a. Human Rights and Environment Due Diligence Legislation in Canada: https://cncarcree.ca/campaigns/mhredd/ b. "The Corporate Respect for Human Rights and the Environment Abroad, Executive Summary of draft model legislation", Bill S-211 Fighting Against Forced Labour and Child Labour in Supply Chains (Canada) c. Overview of France's Duty of Vigilance Legislation: https://www.business-humanrights.org/en/big-issues/corporate-legal-accountability/frances-duty-of-vigilance-law/ d. Mandatory Due Diligence legislation: website with more information: https://www.business-humanrights.org/en/big-issues/mandatory-due-diligence/ Not Required (but recommended): Canadian Ombudsperson for Responsible Business Enterprise: https://core-ombuds.canada.ca/index.aspx?lang=eng 	TBD
	- https://cnca-rcrce.ca/campaigns/ombuds-power2investigate/	
	- Government of Canada "Responsible business conduct abroad strategy 2022-2027":	
	https://www.international.gc.ca/trade-commerce/rbc-cre/strategy- strategie.aspx?lang=eng	
Wk 14 Apr 11	Make- Up Class (if needed)	

University and Departmental Policies:

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

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 accommodation regarding a formally-scheduled final exam, you must complete the Pregnancy Accommodation Form.

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 click here.

Academic Accommodations for Students with Disabilities

The Paul Menton Centre for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact 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 to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (if applicable).

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 where 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/equity/sexual-assault-support-services

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. Read more here: https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf.

For more information on academic accommodation, please visit: https://students.carleton.ca/services/accommodation/

Statement on Student Mental Health

As a University student you may experience a range of mental health challenges that significantly impact your academic success and overall well-being. If you need help, please speak to someone. There are numerous resources available both on- and off-campus to support you. Here is a list that may be helpful:

Emergency Resources (on and off campus): https://carleton.ca/health/emergencies-and-crisis/emergency-numbers/

Carleton Resources:

- Mental Health and Wellbeing: https://carleton.ca/wellness/
- Health & Counselling Services: https://carleton.ca/health/
- Paul Menton Centre: https://carleton.ca/pmc/
- Academic Advising Centre (AAC): https://carleton.ca/academicadvising/
- Centre for Student Academic Support (CSAS): https://carleton.ca/csas/
- Equity & Inclusivity Communities: https://carleton.ca/equity/

Off Campus Resources:

- Distress Centre of Ottawa and Region: (613) 238-3311 or TEXT: 343-306-5550, https://www.dcottawa.on.ca/
- Mental Health Crisis Service: (613) 722-6914, 1-866-996-0991, http://www.crisisline.ca/
- Empower Me: 1-844-741-6389, https://students.carleton.ca/services/empower-me-counselling-services/
- Good2Talk: 1-866-925-5454, https://good2talk.ca/
- The Walk-In Counselling Clinic: https://walkincounselling.com

University Grading system

Grade Point Equivalence Percentage Conversion

A+	12	90-100
A	11	85-89
A-	10	80-84
B+	9	77-79
В	8	73-76
B-	7	70-72
C+	6	67-69
C	5	63-66

Grade Point Equivalence Percentage Conversion

C-	4	60-62
D+	3	57-59
D	2	53-56
D-	1	50-52
F	0	less than 50

Winter 2023 Sessional Dates and University Closures Please find a full list of important academic dates on the calendar website: https://calendar.carleton.ca/academicyear/	
January 20, 2023	Last day for registration and course changes (includin auditing) in full winter and late winter courses.
February 20, 2023	Statutory holiday. University closed.
February 20-24, 2023	Winter break. No classes.
March 15, 2023	Last day for academic withdrawal from full winter, law winter, and fall/winter courses.
April 7, 2023	Statutory holiday. University closed.
April 12, 2023	Winter term ends. Last day of full winter, late winter and fall/winter classes.
April 15-27, 2023	Final examinations in full winter, late winter, and fall/winter courses will be held.
April 27, 2023	All final take-home examinations are due on this day