

Course Outline

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| COURSE: | LAWS 4601 A (Transnational Law and Human Rights) | |
| TERM: | Winter 2020 | |
| PREREQUISITES: | Prerequisite(s): one of LAWS 3503 , LAWS 3602 , and LAWS | |
| CLASS: | Day & Time: | Tuesdays 2:30 – 5:30 (Please refer to the public schedule on <u>Carleton Central</u>) |
| | Room: | Please check with Carleton Central for current room location |
| INSTRUCTOR: | Doris Buss | |
| CONTACT: | Office: | Loeb D86 |
| | Office Hrs: | Thursdays 12:30 – 1:30pm 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 explores the transnational dimensions of human rights through the lens of transnational corporations and human rights. Mining companies, of which many are linked to Canada, have recently become the focus of growing advocacy concerns, and law and policy interventions across varying scales to address the human rights affects of natural resource extraction by companies whose head office is located in the global North. This course will explore some of the human rights/business conduct issues that are currently the focus of significant transnational regulation efforts. Our exploration of transnational mining companies and human rights contexts, while not exhaustive, will be used to consider some larger questions about the transnational dimensions of law and of human rights. Students in this course will be introduced to, and expected to engage with in the classroom and in their written work, analyses of global governance and regulation, as offering different ways to examine normative dimensions of human rights and legality.

Objectives: By the end of the course, students will:

- a. Be able to demonstrate in an essay an understanding of the United Nations Human Rights Committee system and the governance role of country reporting processes;

- b. Have an understanding of the different international efforts to regulate business and human rights and be able to present orally and in writing on at least one of these international initiatives;
- c. Have read some introductory work on global governance and regulation and consider how these concepts apply to international human rights and business operations and to demonstrate, in written analyses, how this expands an understanding of the operation of law and legal studies.

Required Text: 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:

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:

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| Participation (see below): | 15% |
| UN Human Rights Committee assignment: | 15% **due in class and on CU Learn: 2:35 pm, 4 February |
| Group Presentation: | 25% |
| Feedback on Group presentation | 5% |
| Final Essay: | 40% ** Due April 10, 2019 at midnight (by CU Learn) |

ASSESSMENT INSTRUCTIONS:

****Assignments handed in more than 15 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.**

- a. Human rights brief:** more information is available on CU LEARN.
- b. PARTICIPATION:** A maximum of 12 marks will be awarded for in-class participation, comprising both attendance and engagement with the materials covered in class and the readings assigned for the class. A maximum of an additional 3 marks are available, from time to time throughout the semester, for mini assignments that are optional and will only be communicated in class (ie undertaking to research a small issue that comes up in class discussion and briefly outline the research in the next class, or similar kinds of

assignments). The catch is: you must attend and be following class discussion to be able to take up these opportunities.

- c. Group Presentation and Final Essay:** Each student will be part of an active contributor to a group presentation. **YOU ARE RESPONSIBLE FOR SIGNING UP FOR A GROUP AND PARTICIPATING IN THE GROUP PRESENTATION.** 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). The links provided for each of the topics are meant to be a STARTING PLACE only – and groups should supplement with additional research in order for them to do a presentation to their fellow students that reflects a full understanding of the topic. 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.

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

Each student will provide feedback and a grade assessment on at least one OTHER group presentation (ie not their own). You will be assigned a group to assess. 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. **EACH STUDENT IS RESPONSIBLE FOR ENSURING THAT THEY COMPLETE A GROUP EVALUATION AS SCHEDULED.**

Please note: information on “ACADEMIC ACCOMMODATIONS” is found at the end of the syllabus.

SCHEDULE AND READINGS:

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| <i>Please note the following dates:</i> | January 6 | Winter term begins |
| | February 17 | Statutory holiday |
| | February 17 – 21 | Winter Break |
| | April 7 | Winter term ends |
| | April 13 – 25 | Formally scheduled exam period |

| WEEK | TOPIC |
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| WK 1. JAN 7 | <p>Introduction to Course; Introduction to transnational dimensions of human rights.</p> <ul style="list-style-type: none"> ▪ “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; ▪ “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. ▪ https://www.theguardian.com/cities/2017/mar/03/toronto-hidden-history-how-city-built-mining |
| WK 2. Jan 14 | <p>What Does Globalization and Governance have to do with the transnational dimensions of human rights?</p> <ul style="list-style-type: none"> - Bevir, Mark and I Hall. 2011 “Global Governance” in <i>The Sage Handbook of Governance</i>, Ed. M. Bevir. Los Angeles: Sage, pp. 352-363; - Scholte, J. A 2000. <i>Globalization: A critical introduction</i>, pp. 13-17; 20-40; 46-50; - Governmentality piece 716 – 724. - A. J. Innes, B. J. Steele. 2012. «Governmentality in global governance» in <i>Oxford Handbook of Governance</i> ed. David Levi-Faur, pp. 716-729 |
| WK 3 Jan 21 | <p>Introducing International Human Rights and the United Nations System</p> <ul style="list-style-type: none"> • Fact Sheet, International Bill of Rights: https://www.ohchr.org/Documents/Publications/FactSheet2Rev.1en.pdf • Sally Engle Merry, “Constructing a Global Law-Violence against Women and the Human Rights System”, <i>Law & Social Inquiry</i> 28(4): 941-978. • “<i>International Human Rights and the International Human Rights System</i>”, handbook produced by Asia Pacific Forum, (uploaded and available on CU LEARN), <ul style="list-style-type: none"> ○ 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; Chapter 10: “The treaty-based system: An Overview”, pp. 63 – 67; |
| WK 4 Jan 28 | <p>Conceptualizing Transnational Dimension of Human Rights</p> <ul style="list-style-type: none"> • 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; • Sally Engle Merry, <i>Human Rights & Gender Violence: Translating International Law into Local Justice</i> (Chicago, University of Chicago Press), Chapter 2, pp. 36-71 • Hilary Charlesworth, 2010. Kirby Lecture in International Law: Swimming to Cambodia: Justice and Ritual in human rights after conflict’, <i>Australian Yearbook of International Law</i> 29: 2-16 |

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| | <ul style="list-style-type: none"> Michael Kirby. 2010. 'United Nations Special Procedures: A Response to Professor Hilary Charlesworth', <i>Australian Yb of Int Law</i> 29: 22-25. |
| Wk 5 – Feb 4 | <p>Transnational economic relations and human rights: An Introduction</p> <p>** UN Human Rights committee assignment due at 2:35 pm in class and on CU Learn (no required readings; all work will be done in class)</p> |
| WK 6 Feb 11 | <p>Human Rights and Business: Responsibilities of the (Transnational) Corporation?</p> <ul style="list-style-type: none"> Peter Muchlinski 2001. "Human rights and multinationals: is there a problem?" <i>International Affairs</i> 77(1): 31-47; Oonagh Fitzgerald. 2019. Addressing the human rights conduct of transnational corporations through international institutional bypasses. <i>Transnational Legal Theory</i>, DOI: 10.1080/20414005.2019.1651123 Ruggie, John G. "Global Governance and 'New Governance Theory': Lessons from Business and Human Rights", <i>Global Governance</i> 20: 5-17; UN Guiding Principles on Business and Human Rights, https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf |
| WK 7 Feb 18 | <p>Reading week – no class</p> |
| WK 8 Feb 25 | <p>Is there a 'resource curse'? Does Mineral Wealth Cause Armed Conflict and Human Rights Violations?</p> <ul style="list-style-type: none"> Global Witness. 2009. "Faced with a Gun, what can you do?": <i>War and the Militarisation of Mining in Eastern Congo</i>. Report, pp. 1-14 (Executive Summary); https://www.globalwitness.org/en/campaigns/democratic-republic-congo/faced-gun-what-can-you-do/ Séverine Autesserre. 2012. "Dangerous tales: dominant narratives on the Congo and their unintended consequences" <i>African Affairs</i> 111/443, 202-218; Michael Watts. 2004. "Resource curse? Governmentality, oil and power in the Niger Delta, Nigeria" <i>Geopolitics</i> 9(1): 50-80 DOI: 10.1080/14650040412331307832 Andrew Rosser. 2006. <i>The political economy of the Resource curse: a Literature Survey</i>. Brighton, UK: Institute of Development Studies, pp.7-27; |
| WK 9 Mar 3 | <p>"Conflict minerals" legislation: Due Diligence and Risk based governance</p> <ul style="list-style-type: none"> Galit A. Sarfaty. 2015. "Shining Light on Global Supply Chains: <i>Harvard International Law Journal</i> 56: 419-462; Diemel, J.A and D. J.M. Hilhorst. 201. Development Policy Review; Oxford Vol. 37, Iss. 4, (Jul 2019): 453-469. DOI:10.1111/dpr.12372 The EU Conflict Minerals Regulation Explained: https://ec.europa.eu/trade/policy/in-focus/conflict-minerals-regulation/regulation-explained/ Global Witness "What is supply chain due diligence" Issue brief: https://www.globalwitness.org/en-gb/campaigns/what-supply-chain-due-diligence/ |
| WK 9 | <p>What is a corporation and how do we understand responsibility in transnational business contexts?</p> |

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| Mar 10 | <ul style="list-style-type: none"> - Marina Welker. 2016. "Notes on the Difficulty of Studying the Corporation", <i>Seattle University Law Review</i> 39: 397-422; - Iris. M. Young. 2005. "Responsibility and global justice: A social connection model" <i>Anales de la Catedra Francisco Suarez</i> 39: 709-726. |
| WK 10 Mar 17 | <p>Human Rights and Global Supply Chains</p> <ul style="list-style-type: none"> - Genevieve LeBaron and Jane Lister. 2015. "Benchmarking global supply chains: the power of the 'ethical audit' regime" <i>Review of International Studies</i> 41: 905-924. - https://www.theglobeandmail.com/politics/article-american-scholar-warns-canadians-could-be-buying-clothing-made-from/ <p>Background viewing: What is a supply chain:</p> <ul style="list-style-type: none"> - A. https://www.youtube.com/watch?v=lZPO5RclZEo (but you can skip the last section); - B. https://www.youtube.com/watch?v=Ml1QBxVjZAw <p>Group 1. Presentation Topic- Slavery and supply chains</p> <ul style="list-style-type: none"> - Global Slavery Index 2018, chapter 4: "Spotlight on Sectors: Modern slavery in the fishing industry" + "Modern slavery in the cocoa agriculture in Ghana and Côte d'Ivoire" - Human Rights Watch. 2016. <i>Human Rights in Supply Chains: A Call for Binding Global Standard on Due Diligence</i>; Brief, May 2016; 2-16; <p>Group 2: 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</p> |
| WK 11 Mar 24 | <p>Voluntary Principles, Security Forces and Mining Companies</p> <ul style="list-style-type: none"> • Alexandra Guáqueta (2013) Harnessing corporations: lessons from the voluntary principles on security and human rights in Colombia and Indonesia, <i>Journal of Asian Public Policy</i>, 6:2, 129-146, DOI: 10.1080/17516234.2013.814306 • Voluntary principles on Security and Human Rights: https://www.voluntaryprinciples.org/what-are-the-voluntary-principles • Andrew Findlay. 2019. "Canadian mining companies will now face human rights charges in Canadian Courts" <i>The Narwhal</i> June 7. https://thenarwhal.ca/canadian-mining-companies-will-now-face-human-rights-charges-in-canadian-courts/ <p>Group Presentation 3: Civil actions (Hud Bay, etc) against mining companies operated in abroad, in Canadian Courts:</p> <ul style="list-style-type: none"> - Anni Hylton 2019. "Is Canada to Blame for Human Rights Abuses in Guatemala?" <i>The Walrus</i>, https://thewalrus.ca/is-canada-to-blame-for-human-rights-abuses-in-guatemala/ - https://miningwatch.ca/news/2019/11/28/hudbay-operations-peru-and-guatemala-violence-and-repression-found-result-mining |

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| <p>WK 11 Mar 24</p> | <p>Corruption, Human Rights and the Power of Transparency and Accountability</p> <ul style="list-style-type: none"> - James Van Alstine. 2017. "Critical Reflections on 15 years of the Extractive Industries and Transparency Initiative (EITI)" <i>Extractive Industries and Society</i> 4: 766-770. - E. David-Barrett and K Okamura. 2016. "Norm Diffusion and Reputation: The Rise of the Extractive Industries Transparency Initiative" , <i>Governance: An International Journal of Policy, Administration and Institutions</i> 29(2): 227-246. - <i>Ending Company Anonymity: the Key to fighting corruption</i>, EITI: https://eiti.org/eiti-videos - <i>How we work</i>: https://eiti.org/about/how-we-work - https://www.theglobeandmail.com/business/article-snc-lavalin-spent-477-million-on-saadi-gadhafi-between-2001-and-2011/ - https://www.theglobeandmail.com/business/article-snc-lavalin-plea-deal-could-make-canada-look-soft-on-corruption/ <p>Other (not required) information on Transparency and/or EITI:</p> <ul style="list-style-type: none"> - - Fung, Graham, Weil. 2007. <i>Full Disclosure: the perils and promise of transparency</i>, online Carleton University library, chapter 1: "Governance by Transparency". pp. 1-15. <p>Group Presentation 4:</p> <ul style="list-style-type: none"> - Global Witness. 2015. <i>Shell and Eni's Misadventure in Nigeria: Shell and Eni at risk of losing enormous oil block acquired in corrupt deal</i>, https://www.globalwitness.org/en/gb/campaigns/oil-gas-and-mining/shell-and-enis-misadventures-nigeria/ - Global Witness. <i>Shell Knew</i> April 2017. https://www.globalwitness.org/en/campaigns/oil-gas-and-mining/shell-knew/ - http://www.publishwhatyoupay.org/our-work/mandatory-disclosures/ |
| <p>WK 12 March 31</p> | <p>Canadian Government Role in promoting Responsible Business Conduct for Canadian companies abroad</p> <ul style="list-style-type: none"> - Nathaniel Eisen. 2017. "Canada Enables Extractive Companies to Violate Human rights" <i>Earth Rights International Blog</i>: https://earthrights.org/blog/canada-enables-extractive-companies-to-violate-human-rights/ - Jose Carlos Marques. 2016. "Private Regulatory Fragmentation as Public Policy: Governing Canada's Mining Industry" <i>Journal of Business Ethics</i> 135-617-630. <p>Group Presentation 5: Canada's ombudsman and NCP processes: do they matter and what are the controversies?</p> <ul style="list-style-type: none"> - Canada: https://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/csr-rse.aspx?lang=eng - C. Coumans. 2019. « Canada Still Needs an Ombudsmen to Investigate Mining Cases – not an Advisor to the Minister of International trade or Another CSR Counsellor" Blog, Mining Watch Canada: https://miningwatch.ca/blog/2019/5/4/canada-still-needs-ombudsperson-investigate-mining-cases-not-advisor-minister <p>Group Presentation Topic 6: Barrick Gold's North Mara Mine, Tanzania and allegation of human rights abuses.</p> <ul style="list-style-type: none"> - http://www.raid-uk.org/blog/acacia-mining-faces-new-human-rights-problems-tanzania |

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| | - https://www.thestar.com/news/investigations/2019/06/13/reporters-investigated-abuse-and-corruption-at-a-barrick-gold-mine-in-tanzania-they-faced-threats-and-censorship.html |
| WK 13 Apr 7 | Make- Up Class (if needed) |

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 Equity Services website:

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) 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/>

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

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.

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