Special Section: An Eye on the World

University of Michigan Law School

Follow this and additional works at: https://repository.law.umich.edu/lqnotes

Recommended Citation
Available at: https://repository.law.umich.edu/lqnotes/vol49/iss2/4

This Special Feature is brought to you for free and open access by University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Law Quadrangle (formerly Law Quad Notes) by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact mlaw.repository@umich.edu.
An eye on the world

The rule of law that we cherish establishes boundaries—of behavior, commerce, and social interaction. Law also establishes borders—of sovereign states, regional alliances, local jurisdictions. As commerce and communication blur the distances between countries, legal practitioners increasingly deal with the people and laws of many nations.

Yet these people and laws remain very different, even as international laws and norms draw us more closely together. At Michigan Law, international law in all its forms has been here from the beginning. Pioneers like Hessel E. Yntema, Eric Stein, S.J.D. ’42, and others brought world attention to the study of European law and the emerging European Union. Stein continues to look ahead, and today other scholars like Daniel Halberstam, Nicholas C. Howson, Vikramaditya S. Khanna, and Mark D. West continue the tradition with teaching and research on, respectively, Europe, China, India, and Japan. Other faculty members, like Robert L. Howse, Catharine A. MacKinnon, and James C. Hathaway, regularly cross borders in their study of world trade, feminism/equality, and refugee/asylum issues. For scholar Laura N. Beny, research often takes her back to Sudan, her birthplace. For Matthias W. Reimann, LL.M. ’83, an editor-in-chief of the American Journal of Comparative Law, the journal once again has returned home to Michigan Law. As Hathaway, Stein, and Professor Emeritus Theodore J. St. Antoine, ’54, show in the articles that conclude this issue, the richness and complexity of international involvement are infinitely varied.
I stumbled into Japan through a purely academic route. When I went to college, I planned to take four or five languages. I soon realized that my oh-so-brilliant plan wasn’t feasible, and tried to nail it down to one. But which one? I had a friend in high school who used to read Chinese books, and, thinking it would be interesting—no, as an 18-year-old, cool—to be able to read those characters, I decided to head in that direction. My small college didn’t offer Chinese, but it offered Japanese, and that was close enough for me: at least it had those same cool characters. After a couple of years of language study and a stay in Japan, I found myself leaning toward a career in law (if this Japan thing didn’t pan out, I reasoned, I’d at least be a lawyer). I combined the two interests by writing my senior thesis on Japanese law. The paper was published (it was, shall we say, unsophisticated), and it set me on my career path.

Some of our students come into law school with a similar set of interests and skills. Many have spent substantial time in Japan, and a few in each class have mastered the language. For these students, “Why Japanese law?” is easy to answer, as many soon find themselves in demand with firms that have many Japanese clients. In addition to course offerings, Michigan can provide these students with a multitude of resources (including our renowned library and world-class visitors) and, in part because we keep our LL.M. class and research scholar programs relatively small, close contacts in the Japanese legal profession that can last a lifetime.

But Japanese law isn’t just for those who already have Japanese experience. The days of the “international” boutique law firms have passed. Most large firms now have at least a few Japanese clients, and it’s likely that most of our students will come into contact with Japan-related legal issues at one time or another. For those students, what is important is not so much the ability to read Japanese statutes or to translate (after all, the client wants a first-rate lawyer, not a first-rate translator), but the ability to place in context Japanese issues that may arise in practice. It’s helpful to have a general idea, for instance, how torts, contracts, and criminal law function in Japan’s civil law system. It’s useful to understand the system of Japanese legal education, and what kinds of professionals it tends to produce. And to provide legal advice in the way that a Japanese client can best use it, it’s essential to know how both the myths and the truths of the roles of litigation, lawyers, contracts, courts, judges, prosecutors, regulators, and statutes function in Japan.

But even if a student will never face a Japan-related issue in practice, studying Japanese law still makes a lot of sense. That’s true for any foreign law class, but I’m hard pressed to think of a better system for studying law-and-society, comparative law, and on-the-ground law-and-economics than Japan. The Japanese legal system is a Rube Goldberg contraption of a comparative law experiment: What results if you take a predominantly Chinese system, plop it in pre-feudal Japan, completely overhaul it with German and French ideas in the 19th century, and then 70 years later have Americans, most of whom had little or no knowledge of Japan, revise the system by doing such things as drafting a New-Deal-style Constitution and dumping the Illinois Business Corporation Act of 1933 into Japan’s Commercial Code? Keep in mind, of course, that this mishmash occurs in the context of Japanese society, which leads to questions like whether Japan’s relatively low litigation rates can best be explained by culture or economics, or whether Japan’s organized crime can be attributed directly to defects in its legal system and enforcement regime. In my Japanese Law class, the law-and-society lens helps clarify why Japanese courts have held that state-sponsored
Shinto groundbreaking ceremonies don’t run afoul of the freedom-of-religion provision in its constitution, or that (until 1987) a “responsible party” to a marriage’s decline cannot receive a divorce if the other party does not consent, or that preparing blowfish in “the traditional way” is insufficient to escape liability in suits brought by the heirs of poisoned customers.

These kinds of questions are fun and intriguing, and in the right context, could perhaps fill a lull at a firm’s cocktail party. To me, that’s not such a terrible goal, but the study of Japanese law in a U.S. law school prepares students for much more than that. Looking at these issues as Michigan-trained lawyers in the Japanese context forces us to ask hard, thought-provoking questions about our own system.

How do economics and culture affect behavior in the U.S. legal system? Why do we do what we do, and why do we do it like that? Is there another way to do things? These lines of investigation help students even in a purely domestic practice think outside the box, look for creative solutions, and use some of the methods that we use in class to investigate empirical questions of Japanese law—economic reasoning, interviews, and (gasp) regression analysis—to help. Adding these tools to the lawyer’s toolbox can help all students become better advocates. Using Japanese law as a way of teaching those skills is a somewhat stealthy, but effective, way to do it.

Law School, Japan enjoy deep, lasting ties

Michigan Law’s ties with Japan are deep and enduring. The School’s first two Japanese students graduated in 1878, and, through the Law School’s scholar exchange with the University of Tokyo and other programs, many of Michigan Law’s faculty members have taught in Japan. Dean Evan H. Caminker regularly meets with Japan-based Law School graduates as part of his visits to alumni in Asia.

The Law School’s LL.M. program always includes students from Japan, and the U.S.-based student body includes growing numbers of students who are fluent in Japanese. Japanese alumni and legal and government officials regularly visit the Law School.

Japanese Law, the core course of Michigan Law’s Japanese Legal Studies Program, exposes students to the roles of Chinese, German, and American law in the development of modern Japanese law and outlines the formal structure of the Japanese legal system, the country’s legal profession, dispute settlement mechanisms, and how law and the cultural setting relate. Nippon Life Professor of Law Mark D. West teaches the course, and for two to three weeks of each class term, he co-teaches with visiting professors from the University of Tokyo Faculty of Law.

Other Japanese law-related courses in the program include Comparative Family Law, Comparative Corporate Law, Individual Rights in Japan, and Independent Research. In addition, the School offers seminars in a variety of subjects. In recent years seminar topics have included Institutions and Actors in the Japanese Legal System and Japanese Legal Documents, the latter taught in Japanese using documents written in Japanese.

Students in the program also may spend a semester studying at Waseda University Law School for transfer credit leading to the J.D.

In addition, at least two research scholars are adding to the Japanese presence at Michigan Law this year: Associate Professor Ryoko Iseki of Doshisha University Faculty of Law, and Tomoko Sasakuma, an associate professor at Ehime University Faculty of Law and Letters. Iseki, who came to the Law School last spring and remained until July 31, was doing research on intellectual property law. Sasakuma, who is doing research here until December, is examining labor and employment law and equality law.

Finally, law students can draw from the University-wide ties with Japan and academic and research interest in the country. If they choose, they can pursue a dual degree program leading to a masters degree in Japanese studies as well as their J.D. Information is readily available through the University’s Center for Japanese Studies, which West directs.
AN EYE ON THE WORLD

WHY CHINA? A startling transformation

By Nicholas C. Howson

Assistant Professor Nicholas C. Howson has lived and worked extensively in the People’s Republic of China (PRC), reads and writes Chinese fluently, and has been involved with some of the most significant corporate and securities legal issues stemming from China’s “opening to the outside world.” He has acted as a consultant to the Ford Foundation, the United Nations Development Program and the Chinese Academy of Social Sciences, and various Chinese government ministries and administrative departments in the drafting of the PRC Securities Law (1998) and the amended PRC Company Law (2005). He is a designated foreign arbitrator for the China International Economic and Trade Arbitration Commission and a former chair of the Asian Affairs Committee of the Association of the Bar of the City of New York. Prior to studying law, he spent two years (1983-85) as a graduate fellow at Fudan University in Shanghai, China, doing coursework and writing on late Qing Dynasty-early modern Chinese literature; after law school, he was awarded a Ford Foundation/Committee for Legal Education Exchange with China fellowship to complete research in Qing Dynasty penal law, during which time he was resident at Beijing University (and working with scholars at People’s University and the China University of Politics and Law) for the latter part of 1988. His expertise in Chinese law, politics, and economic reform takes center stage in courses like China: International Engagement/Domestic Legal Reform and Chinese Investment, and enriches other courses he teaches in Banking and Finance, Corporate Law and Practice, and International and Comparative Law.

With China’s growing economic and political power dominating world headlines, the People’s Republic of China’s (PRC) sudden influence over the ever-globalizing world economy, and that nation’s direct effect on every aspect of our lives, it often seems the exasperated question should be “Is there anything but China?”

Yet this points to only one half of the story, the impact of China and its extraordinary path of development over the past two decades on the outside world and the United States. Another vantage point—the view from inside China—reveals a process of transformation even more startling and far-reaching than the external manifestations of China’s rise. That is a set of transformations which includes: rapid modernization and industrialization; the attendant huge internal migrations of a formerly peasant population and accelerating inequalities; an “opening to the outside world” capped by the PRC’s accession to the World Trade Organization (WTO); marketization of the economy and semi-privatization of large sectors of industry; internal governance reform; the tentative development of civil society; explicitly directed and spontaneously-generated political reform; and, most importantly for Michigan Law, an impossibly ambitious, once in a generation, all-encompassing program of “legal construction.”

In the late 1970s, leaving behind the serial trauma of the Anti-Rightist Campaign, the Great Leap Forward, and the Great Proletarian Cultural Revolution, China’s post-Mao leadership committed the nation to a policy of “Reform and Opening to the Outside World.” A new legal order, newly promulgated substantive law, revivified legal institutions, trained judges and lawyers, and a Chinese-style “rule of law” consciousness were all understood to be critical components for the chosen economic development model, not to mention profitable interactions with the
outside world—from the attraction of foreign capital investment to reinvigorated international trade. Thus, China’s change over the past 20-plus years has been explicitly prodded, shaped, and protected by law, and yet notions of law and legal institutions which are specific to China’s modern history and political culture. Perhaps most compelling, the introduction of rule of law ideas into China, originally designed to support internal economic development and external business and financial interactions, has had pronounced unintended consequences for the PRC—so that individuals properly seeking enforcement of contracts and protection of property rights in a new semi-market economy now strive for the protection of far more sensitive civil and political rights against the same superior forces which directed legal reform in the first place.

This is why the Michigan Law School is so intent on becoming a center for the study of China’s legal transformation—not just because China’s growing economic and political power affects every aspect of our daily lives, but because its internal process of legal reform is unprecedented in the history of the world. And China has much to teach us: for only by observation and understanding of the legal system changes sought, frustrated and accomplished inside the most populous nation in the world, are we sure to harvest a more profound understanding of our own legal, economic, and political structures, and the underlying assumptions which continue to support them.

Reuven S. Avi-Yonah, who directs Michigan Law’s LL.M. international tax law program, also regularly teaches in China and other countries. The experience quickly showed him the mutual benefit of a faculty exchange between Michigan Law and one of China’s top law schools. The result is the highly successful exchange between Michigan Law and Tsinghua University Law School in Beijing. “The exchange started three years ago,” explains Avi-Yonah, the Irwin I. Cohn Professor of Law. “I had taught Tsinghua students at the National Accounting Institute in Beijing in 2000 and 2001, and we started the faculty exchange program in 2003.”

Avi-Yonah and Associate Dean for Academic Affairs Kyle D. Logue are scheduled to teach at Tsinghua in 2007. Since the exchange began, Professors Richard D. Friedman, Michael S. Barr, Robert L. Howe, Nicholas C. Howson, Vikramaditya S. Khanna, and adjunct faculty member (and Business Law Faculty Fellow) Timothy L. Dickinson, ‘79, have taught at Tsinghua. In return, Tsinghua scholars have visited at Michigan Law, and a small number of J.D. candidates have gone to Tsinghua.

“The exchange consists of a one-credit course (18 hours) for both Tsinghua and Beida University students on a U.S. law topic,” Avi-Yonah explains. “Between 30 and 130 students a year have taken the class. In addition, Professors Steven R. Ratner and Alicia Davis Evans have visited Tsinghua for a conference on topics in U.S. and Chinese business law held in 2005 to commemorate Tsinghua Law School’s 10th anniversary.”

“The main benefit is a link with one of the best schools in China, and the opportunity for mutual learning,” according to Avi-Yonah. “Tsinhghua Law School is now considered perhaps the most dynamic and innovative of China’s major law teaching institutions.”
My connection to Europe is plain. I was born and raised in Germany, where I completed my secondary education before coming to the United States for college.

I might note that my father was an American Jew. If asked, I might add that my mother, a German Protestant who lived through the war as a child, converted to Judaism and became an American citizen before I was born.

If pressed, I could further explain that my father, the son of a rabbi, was a naturalized citizen himself, born in Poland and brought to the United States (via Germany) when his family immigrated in 1926. My great-grandfather, Rabbi Aaron Halberstam (who was the great-grandson of Rabbi Haim Halberstam of Sanz) stayed behind and, 16 years later, was pulled from his ritual bath and shot by the SS along with hundreds of other Jews in the town square of Tarnow.

Finally, I suppose, I could tell the story of my ancestor, Rabbi Meir of Rothenburg, who was a European of sorts as well. Born in Worms, Germany, in 1215, he traveled as a young man to Paris, a renowned center for Talmudic learning at the time. While studying there, he witnessed the disputation of the Talmud in 1240, in which the brilliant Chief Rabbi of Paris defended the Talmud in vain against charges of heresy. After an initial acquittal in the King’s Court, the Church staged a retrial before its own tribunal and prevailed. On orders of the Pope, 24 cartloads of Talmudic manuscripts were seized throughout France and Portugal and set ablaze in a bonfire that inaugurated a new age of destruction for the Jews of Europe.

Rabbi Meir returned to Germany and founded a school for Talmudic studies in Rothenburg ob der Tauber. His scholarly reputation soared and the Jews of Germany soon turned to him as the final court for their religious and legal disputes. When Rudolf I of Hapsburg, the Holy Roman Emperor, declared Jews serfs of the treasury, Rabbi Meir set out to emigrate for Palestine—but he was captured and imprisoned along the way. The Emperor demanded a ransom of over 20,000 silver marks (an enormous sum: five tons of silver). His followers raised the money, but Rabbi Meir urged that it not be used, as this would only vindicate the Emperor’s oppressive policies against the Jews. After seven years in captivity, Rabbi Meir died in prison. And yet, the Emperor would not release the body. Fourteen years later, the Jewish merchant Alexander Süsskind Wimpfen gave his fortune for the release of the rabbi’s remains. As compensation, Wimpfen asked only that, upon his own death, he be buried next to the rabbi. Their tombstones rest beside each other in the Jewish cemetery in Worms to this day. I have stood before them many times.

Even for Americans without such personal connections, the bonds between America and Europe run far deeper than meets the eye. Take the FDR Memorial in Washington, D.C., which bears President Roosevelt’s most memorable statements. Chiseled in stone is the phrase he used in his “fireside chat” on December 29, 1940, to inspire Americans to save Europe: “We must be the great arsenal of democracy.” Famous words. Few probably know that they were written by Jean Monnet, the French Cognac vintner, bureaucrat extraordinaire, and chief architect of the European Union. The image of an “arsenal” was no accident. Monnet was a munitions man. Having worked on the principal allied war munitions council during World War I, he well knew the importance of mobilizing U.S. weapons support early on in the fight against Nazi
After lobbying Administration officials with meticulous balance sheets and those soon-to-be famous words, Monnet met with success. His friend, Supreme Court Justice and FDR confidant Felix Frankfurter, told Monnet never to use those words again—they now belonged to the President.

From the FDR memorial to the Statue of Liberty and beyond, our European connections are so pervasive that they fade into the background, unexamined. As we focus on our present differences with Europe and highlight market opportunities elsewhere in the world, we should not, however, forget the enormous give and take between the United States and Europe that pervades our daily lives.

Consider only the economic facts that John Bruton, the European Commission’s Ambassador to the United States and former Irish Prime Minister, presented at the University of Michigan’s EU Center last March. With 25 member states and a population of 450 million, “the EU’s member states account for almost a third of the global economy and 40 percent of all global trade, making it the world’s most significant trading area.” As the ambassador reported, the transatlantic relationship runs deep from investments to goods. On the investment side, for example, “there are more European investments in the state of Texas than U.S. investments in China and Japan combined.” More broadly, “EU companies are the single largest foreign investor in 45 of the 50 U.S. states [including Michigan], and rank second in the remaining five,” providing “65 percent of all foreign investment in the U.S. in 2003.”

European country, Ireland, as they do from all their investments in China,” and, more generally, “earn more from their investments in the EU than in the rest of the world combined.” In terms of trade in goods, the EU and the U.S. are each other’s main trading partners. The EU is the largest export market for the United States after Canada, and the single largest source of imports. Conversely, the U.S. is both the largest export market as well as the largest source of imports for the European Union.

There is yet more to why we should care about Europe than monuments, munitions, and markets. Over the past half century, Europe has been engaged in an historic political enterprise, the significance of which rivals that of the American Revolution. As Eric Stein’s pioneering work here at the law school revealed over 25 years ago, the lawyers and judges of Europe have quietly built a Europe-wide system of constitutional governance. What we find is a common polity of citizens and peoples with a common market, a common interest in peace, and a modicum of shared values.

Europe’s new legal order continues to unfold before our eyes. Despite the seeming disaster of the French and Dutch “no” votes in referenda on the Draft Constitutional Treaty in 2005, the idea of European constitutionalism is alive and well. What is more, European constitutionalism has come to serve as the touchstone for debates about regional integration across the world. Indeed, in my view, European constitutionalism even challenges our own, often all-too-settled notions of what it means to have a constitution right here in the United States.

If you ask me “Why Europe?” I say “That’s why.”

---

**European Law**

Michigan Law pioneered the study of European law. In doing so, it was following a directive to provide study in international law that was laid down before the Law School opened its doors: The 1837 statute that established the University of Michigan specified that its “law department” (which opened in 1859) would include a professor of “international law.”

Students and scholars interested in European and European Community law today find an ever richer trove here. European Law Program Director Daniel Halberstam’s own course, European Legal Order, builds on the foundation established by the Law School’s pioneering Transnational Law course.

Other courses, like English Legal History, Federalism, International Trade Law, and International Commercial Transactions, help students deepen their understanding of European and other international law.

Visiting scholars and leaders from Europe regularly teach and speak at the Law School via the School’s International Law Workshop, Research Scholars program, Helen DeRoy Visiting Professorships (see story on page 29), and other programs. In addition, the University’s European Union Center offers a wide range of programs and often joins hands with the Law School to present programs.
World's largest democracy, with an Anglo-American common law system

By Vikramaditya S. Khanna

The world’s attention is now focused on India. Whether because of its phenomenal economic growth, deep and rich history, multitudes of peoples and cultures, geographic and climatic diversity, or simply because it is the most populous and most sprawling democracy in the world—India has captured everyone’s notice. Indeed, as they say: Everyone needs an “India Strategy”. What, then, is our (or your) “India strategy” and what can we learn by studying India?

There are many reasons why lawyers would find studying legal issues related to India fascinating, even aside from the meteoric resurgence of the Indian economy. For example, India is the world’s largest democracy, with virtually unparalleled heterogeneity in its peoples, cultures, climates, and resources. This leads to many important issues that a democracy must handle through law and regulation. Learning from the successes and problems India has faced in managing this would be very valuable in thinking more broadly about legal issues in an increasingly heterogeneous society and world. Indeed, India has one of the most sophisticated pluralistic legal systems, wherein different laws can apply to different people based on a variety of factors.

Further, India’s current legal system is based on the Anglo-American common law model, which means that among the most important emerging markets India is the one that bears the closest resemblance to our own system. Moreover, the legal language in India is English. The combination of these two features means that India can offer certain kinds of legal services to U.S. law firms and companies. Legal process outsourcing, as it is now dubbed, not only could have an impact on the market for legal services in the United States, but also on the development of the legal profession in India. Indeed, some students are considering the idea that it would be very valuable to obtain some legal experience in India.

In addition, India provides an enviable environment in which to examine the importance and influence of the law in aiding development. Over the last 15 years India has undergone a process of very significant legal change from a system with heavy government control to one that is more market-oriented. The changes can be seen in many areas. For example, the law plays a critical role when thinking about loosening restrictions on the Indian business environment, providing guaranteed access to education for certain groups, ensuring clean air and environmental responsibility, and addressing claims of social and distributive justice. Understanding how these changes arise in such a large emerging market and how legal training and research can help in the formulation of policy, and indeed in the formation of laws, is critical to appreciating the role of the law in development.

These are just some of the reasons why the University of Michigan Law School is so interested in India. Indeed, exploring legal issues related to India not only fosters a better appreciation of an immense and important country like India, but also helps to develop a deeper understanding of our own legal system and the importance of the law to development and overall well-being.

AN EYE ON THE WORLD

WHY INDIA?

Professor Vikramaditya Khanna’s abiding interest in India, its legal and other institutions, and the complex effects of its burgeoning economy are apparent in his teaching and academic activities. In addition to delivering lectures and writing for American and European institutions, he has presented papers at the Indian Institute of Management and the Indian School of Business. Last year he co-organized four conferences in Bangalore and Hyderabad, India, on the role of foreign investment capital in Indian venture capital markets. The founding editor of India Law Abstracts, an online abstracting journal, he lectures in the United States and elsewhere on subjects such as the development and impact of corporate governance reform in India, economic history of business organizations in ancient India, outsourcing and the Indian legal services market, Sarbanes-Oxley and the foreign firm, and the development of modern corporate governance in China and India (with Assistant Professor Nicholas Howson, see story on page 8). Khanna’s research on India is related to his other research and teaching interests, such as corporate law, securities regulation, corporate crime, and law and economics. Khanna has also developed the course The Impact of Sarbanes-Oxley on Doing Business, being offered for the first time this fall at Michigan Law and the Stephen M. Ross School of Business at the University of Michigan.
International law and informal norms

By Robert L. Howse

Robert L. Howse, the Alone and Allan F. Smith Professor of Law, is a world-renowned authority on trade law and the process and consequences of globalization. Since 2000, he has been a member of the faculty of the World Trade Institute, Berne, Master’s in International Law and Economics Programme, and is a frequent consultant or adviser to government agencies and international organizations such as the Organization for Economic Cooperation and Development, United Nations Conference on Trade and Development, the Inter-American Development Bank, the Law Commission of Canada and the UN Office of the High Commissioner for Human Rights. He is a Reporter for the American Law Institute on WTO Law. He has acted as a consultant to the investor’s counsel in several NAFTA investor-state arbitrations. He is a core team member of the Renewable Energy and International Law (REIL) project, a private/public partnership that includes, among others, Yale University, the law firm of Baker & McKenzie, and the investment bank Climate Change Capital. Howse serves on the editorial advisory boards of the European Journal of International Law and Legal Issues in Economic Integration. He has also held a variety of posts with the Canadian foreign ministry, including as a member of the Policy Planning Secretariat and a diplomat at the Canadian Embassy in Belgrade.

Globalization—the intensified mobility of goods, services, people, capital, ideas, and trends across national boundaries—has vast implications for law, many of which are not captured by the traditional or classic idea of international law. Many transboundary issues entail informal cooperation or coordination between judges and/or regulators in different national jurisdictions. Often there are no binding international legal rules but instead more or less informal norms emerge with a view to solving transboundary problems.

The range of areas is enormously wide—from bankruptcy to child custody. When judges draw on legal sources from other countries they are not (contrary to what is sometimes said) doing international law—they are simply expanding their horizons as jurists beyond national boundaries. Voluntary codes of corporate social responsibility are having important effects on firm behavior and play an important role in the debates about globalization, and yet these often are not closely linked to rules of international law.

International law is, in large part, made by the consent of states and its content negotiated by government officials. But some of the most rapidly developing areas of international law in our time of globalization are those that engage the interests and directly affect the lives of individuals—human rights, trade and investment, international criminal law. It is arguable that governments and their diplomats have lost control of international law, which is now being debated, invoked, interpreted, followed, and arguably even reshaped by a very wide range of actors, none of which have what is called “international legal personality”—a formal law-making capacity that is still reserved for states and international intergovernmental organizations.

At the same time, some of the traditional international law-making processes—such as multilateral treaty-making—face serious challenges in keeping up with the pace of change in technology, global business practices, and other trends. Such treaty-making takes a long time and involves building consensus among large numbers of states.

In the area where I focus much of my research, international economic law, this has been particularly obvious recently with the impasse in the Doha round of trade negotiations at the WTO. In the light of this impasse, regional arrangements—made between smaller groups of countries—will play a greater role. The proliferation of bilateral and regional pacts has created worries about “fragmentation” of international economic law.

But “fragmentation” is a broader issue than just regionalism and an almost inevitable consequence of the nature of globalization: the enormous range of subject matters that are engaged by transboundary activity that requires a wide range of legal regimes and fora. And there are pervasive overlaps: between intellectual property, anti-trust, and investment law, for instance; between trade rules dealing with import restrictions and international law applicable to biosafety and food safety in general; and so on. How to create appropriate relationships between the different regimes and fora is a key question, one that has recently been tackled by the International Law Commission.
WHY SUDAN?

Ambiguous identities forge persistent conflict

By Laura N. Beny

The following essay is excerpted from the prospectus for Perspectives on Genocide and Genocidal Violence in the Sudan, edited by Law School Assistant Professor Laura N. Beny, Sondra Hale of UCLA, and Lako Tongun of Claremont Colleges, California. The book is under advance contract for publication by the University of Michigan Press. Its 14 chapters, written by prominent historians, anthropologists, social scientists, political leaders, and others, “tell overlapping stories about the social constructions of race, gender, culture, and religious and political loyalties, each of which underlies the longstanding conflict” in Sudan, according to Beny, whose essay in the book is titled “Beyond Economics: Slavery in the Sudan as Genocide.” Other chapters cover Darfur, the decades’ long North-South conflict, slavery, gender crimes, the political economy of oil, and political Islam.

“This book is very timely and relevant, as the crisis in Darfur has reached huge proportions and there is ongoing heated debate about UN intervention in the region,” Beny noted in September, shortly after returning from a personal and research visit to the country. On September 26 the U.S. House and Senate passed similar measures to authorize sanctions against Sudanese persons implicated in the commission of war crimes, and in October the Sudanese government expelled the chief UN envoy to the country.

Beny, who was born in the Sudan, frequently speaks and writes on the country. She has served on the editorial board for the Sudan Studies Association of North America and currently is a research fellow at the U-M’s Stephen M. Ross School of Business’ William Davidson Institute, where she coordinates and manages the Sudan policy brief series of articles on economic policy issues in the Sudan.

The question of genocide is, arguably, the most pressing human rights question to emerge in the 20th and 21st centuries. Although the Holocaust of 1930s-1940s Europe is still the template for genocide studies in the minds of most Western observers, more recent and deeply disturbing political events (e.g., Bosnia and Rwanda) have forced a more international approach. The United Nations Genocide Convention was constructed to fit the model of Europe and students of genocide are only now focusing on other case studies that may not fit established models. We are part of an emerging approach that calls for a reassessment of ideas about genocide: a redefinition, a broadening of concepts, an investigation beyond Europe, and an approach that is, at once, culturally specific and transnational. Our book also presents an approach that is gendered, not simply by the inclusion of women as victims, but more significantly by considering gender as an analytic concept.

While a few recent books on Sudan address genocide, these books narrowly focus on the current crisis in Darfur, western Sudan. International attention on Darfur has tended to overlook, except in passing, the fact that similar genocidal crises occurred in southern Sudan almost continuously from the late 1950s until 2005, when the government and the Sudan People’s Liberation Army/Movement (SPLA/M) consummated the Comprehensive Peace Agreement in January 2005.

Sudan is ambiguously included in both Africa and the Middle East. This dual orientation and the Middle East. This dual orientation and
malign neglect. These assaults on human dignity have been most evident in southern Sudan and the Nuba Mountains of the southwestern Sudan and, more recently, in Darfur, western Sudan.

While all this is occurring, Sudan is enjoying a growing geopolitical significance, which surged when it became an oil-exporting country in 1999. The newly oil-exporting Sudan is strategically located, culturally and geographically, to offer a window into the conflicts in the Horn of Africa and into the spread of radical Islam (or Islamism) in a vast region. It is an area long of interest because of its African and Arab combinations and tensions; its Muslim, Christian, indigenous religious interactions; its complex legal system (with religious, civil, and customary co-existing); its economic potential; and its dynamic of military-civilian conflicts. It is also a society with a complex civil society, a weak state, regional and political fragmentation, and fierce competition among sectarian, non-sectarian, religious, and secular political parties.

Furthermore, Sudanese society has never recovered from the diverse waves of colonialisms and foreign intrusions that have punctuated its history (Ottoman, Egyptian, Arab, and British) and dramatically bifurcated its land into “northern” and “southern.” Sudan is a fertile testing ground for numerous inquiries in the areas of colonialism, racism, economic and human exploitation, neocolonialism, human rights, rule of law, constitutionalism, the role of religion in the state, development, self-determination, state formation, human rights, and now, tragically, genocide.

That the warring parties of the North-South conflict achieved a peace settlement in 2005 does not render such study irrelevant as it relates to that particular conflict. Indeed, sustained peace and lasting reconciliation rest fundamentally upon the establishment of truth and justice, however they are administered.

### Documentary footage

Professor of Law James C. Hathaway; Michael Awan, a member of the Lost Boys group; Assistant Professor of Law Laura N. Beny, who does research in Sudan and is co-editor of a forthcoming book on the Sudan; and documentary film maker Megan Mylan are shown below in front of the Michigan Theater, where the Refugee and Asylum Law Program, which Hathaway directs, and the Student Network for Asylum and Refugee Law presented a benefit showing of the film Lost Boys of Sudan. The movie-length film tells the story of two Sudanese boys, orphaned by the violence in their home country, who first survived lion attacks and militia gunfire as they and thousands of other children walked hundreds of miles to reach a Kenyan refugee camp, and then were among a group of refugees chosen to leave the camp and come to America, where they found themselves facing the abundance and alienation of life in another new country. Hathaway, Awan, Beny, and Mylan were panelists for a post-screening discussion of the film and conditions in Sudan. Directed by Mylan and Jon Shenk, Lost Boys of Sudan showed on PBS in 2004. It won two Emmy nominations, the Independent Spirit Award, and was named Best Documentary in the Bay Area (San Francisco) International Film Festival. Its Ann Arbor showing was part of an outreach campaign to support refugees from the crisis in Darfur, Sudan. As part of the outreach campaign, the film was screened on Capitol Hill with the Congressional Refugee and Human Rights Caucuses and with the State Department’s Refugee and Migration Bureau.
Human rights should know neither border nor gender

Professor Catharine A. MacKinnon specializes in sex equality issues under international and constitutional law. She pioneered the legal claim for sexual harassment and, with the late Andrea Dworkin, created ordinances recognizing pornography as a civil rights violation. The Supreme Court of Canada has largely accepted her approaches to equality, pornography, and hate speech. Representing Bosnian women survivors of Serbian genocidal sexual atrocities, she won with co-counsel a damage award of $745 million in August 2000 in Kadic v. Karadzic, which first recognized rape as an act of genocide. She works with Equality Now, an NGO promoting international sex equality rights for women.

Professor Catharine A. MacKinnon’s goals of working for women’s and gender equality inexorably took her beyond borders into challenging the legal, social, cultural, psychological, and other barriers that keep most women unequal to men worldwide.

As Professor Daniel Halberstam noted in introducing her recently to a lecture audience, “she virtually created the field of sex equality law, both in constitutional law and, increasingly, in international law.” Indeed, MacKinnon’s vision of human rights as equal entitlements for women as well as men is without borders. Her work to ensure those rights for those who have been deprived of them, mostly women, gives her a global view and has made her a world personality.

MacKinnon conceived and litigated the groundbreaking Kadic v. Karadzic, in which Bosnian Muslim and Bosnian Croat women and child victims of Serbian sexual atrocities sued Bosnian Serb leader Radovan Karadzic for planning and ordering a campaign of murder, rape, forced impregnation, and forced prostitution to destroy their religious and ethnic groups. The case recognized rape as an act of genocide for the first time, a breakthrough that has influenced international tribunals. Suing for rape as torture and as war crimes as well, they successfully relied on the obscure 1789 Alien Tort Claims Act, which Second Circuit Chief Judge Jon O. Newman said “creates federal court jurisdiction for suits alleging torts committed anywhere in the world against aliens in violation of the law of nations.” With co-counsel Maria Vullo of Paul, Weiss, MacKinnon secured a damages award from a federal jury of $745 million in August 2000.

At Michigan, MacKinnon regularly teaches a seminar on Women’s Human Rights with Affiliated Overseas Faculty member Christine Chinkin. Some international materials are always
included in Sex Equality, her lecture class. Her most recent book, Are Women Human? And Other International Dialogues (Harvard University Press, 2006), is a collection of international and comparative writings and speeches. She recently spoke on a panel on women’s issues internationally at the American Society for International Law, the proceedings of which will be published in the American Journal of International Law, for which she is also writing a book review.

In the last year, her “Women’s September 11th,” analyzing the relation between the “war on terror” and the undeclared war on women, was published in the Harvard Journal of International Law; her analysis of the rights of Muslim women after divorce under equality doctrine in India was published in the International Constitutional Law Journal; and her argument that pornography is a form of international trafficking in women was published by the Michigan Journal of International Law. Efforts to collect the judgment in kadic v. Karadzic are ongoing. She continues to work with Equality Now, an international activist organization for women’s rights around the world, as well as to lecture and consult and be involved in international and domestic issues of women’s rights, including sex trafficking.

MacKinnon’s thinking on sex discrimination centers upon, but is not limited to, the problem of discrimination against women by men. She has also been in the forefront of developing new thinking about the impact of gendered notions like aggressiveness and competitiveness on men, and in defending sexually violated men. In her brief on behalf of plaintiff Joseph Oncale in Oncale v. Sundowner Offshore Services, for example, MacKinnon was instrumental in convincing the U.S. Supreme Court in 1998 that sex discrimination consisting of same-sex harassment is actionable under the Civil Rights Act of 1964—the first such recognition by that Court. There the plaintiff had been sexually assaulted by other men while they all were working on an offshore oil rig in the Gulf of Mexico. She has also argued in an article published recently, and has contended in teaching since 1977, that discrimination against gay men and lesbian women is sex-based discrimination.

This ever-broadening vision held a central place in MacKinnon’s lecture “Women’s Status, Men’s States” for the International Law Workshop earlier this fall. “Women are in the midst of the process of becoming human, a process that is changing human rights itself,” she told her standing-room-only audience. States are “male institutions,” she said, dominated by men and embodying male gender characteristics like sovereignty.

Is international law a counterweight to these tendencies, she asked, or “is it a meta-male?” Even as international law limits states, it builds on, depends on, and supports the power of states as such, she asserted. “Gender itself is a largely overlooked transnational force that works to support the dominance of men over women and some men over other men.”

The structure of jurisdiction favors male dominance, she further argued, as women are often told, “Go back home and work it out with him”—back to the place where most injuries to women most often happen. That is why she considers Kadic v. Karadzic to be “a signal victory on the jurisdictional frontier,” in that it permitted women to seek remedy against men who harmed them at home in another country under substantive international principles.

In MacKinnon’s view, “women’s resistance to the denial of their rights, centering on sexual violation, is the cutting edge of human rights at the turn of the 21st century.”
A beacon in refugee law

Professor James C. Hathaway is director of Michigan Law’s Refugee and Asylum Law Program, a Senior Visiting Research Associate with Oxford University’s Refugee Studies Program, president of the Universidad Internacional Menéndez Pelayo’s Cuenca Colloquium on International Refugee Law, and an editor of both the Journal of Refugee Studies and Immigration and Nationality Law Reports. He established and directs the Refugee Caselaw Site (www.refugeecaselaw.org) and regularly provides training in refugee law to academic, nongovernmental, and professional groups around the world.

James C. Hathaway, a world-renowned authority on refugee law who literally has written the book(s) on the subject (The Rights of Refugees under International Law [2005], Reconciling International Refugee Law [1997], and The Law of Refugee Status [1991]), happily reports that world leaders in the refugee law field increasingly recognize the significance of Michigan Law’s Refugee and Asylum Law Program—and indeed are coming to the Law School to contribute to and benefit from it.

Specifically, says Hathaway, the School’s biennial Colloquium on Challenges in International Refugee Law has been drawing increasing attention worldwide for the Michigan Guidelines that each biennial session produces after participants spend several days focusing with laser-like intensity on a single issue.

And this year, he says, the colloquium broadened its vision. It moved beyond simply providing a definitional answer to a refugee law issue, a complex enough process, to embracing the human rights ramifications that emanate from translating definition into policy and action.

“I think the influence of the colloquium is really spreading,” explains Hathaway. As evidence, he notes that refugee experts around the world are using the Guidelines, that this year for the first time the colloquium had a co-sponsor, and that this year’s colloquium topic was broader and more action oriented that previous ones had been.

This year’s colloquium was held November 10-12 at the Law School. Like its predecessors, it offered students of refugee law the singular opportunity to rub elbows and match minds with academic and legal experts from around the world on a specific issue—the internal protection alternative in 1999, the limitation of refugee status to persons able to show their fear of persecution is “for reasons of” race, religion, nationality, membership of a particular social group, or political opinion in 2001; and the meaning of the “well-founded fear” clause of the refugee definition in 2004.

The Guidelines issued from these colloquia have had an impact, according to Hathaway. New Zealand’s refugee law jurisprudence now incorporates some of their language, and England’s House of Lords recently cited the Guidelines as a source that the lords used to come to their decision.

“That this year’s topic was an unusual one,” he continues. “We are branching out to the human rights of refugees. We’re actually taking up the contentious issue that links refugee law and international human rights law: When can a state force the person claiming refugee status to have his claim determined in a foreign country other than where he is now physically present? Governments increasingly assert their right to send refugee claimants to another country to have their protection needs assessed—for example, under the recent U.S.-Canada agreement. What are the legal constraints on such removals?”

The University of Melbourne in Australia co-sponsored this year’s colloquium, thereby forming a partnership that offers Michigan and Melbourne law students the opportunity to participate. Hathaway and Melbourne Law Professor Michelle Foster jointly constructed the research project, her students researched it, and Michigan Law students ran the colloquium.

“We will strive clearly to explain the legal basis for and constraints on the prerogative of states to remove refugee claimants from their territory, taking particular account of the jurisprudence of leading asylum countries,” Hathaway explained to participants beforehand. “Our goal is to identify areas of consensus and controversy, and
ultimately to define a ‘best practice’ standard to assist advocates, judges, and policymakers engaged in the application of refugee law.”

The colloquia was being chaired by Rodger Haines, deputy chair of the New Zealand Refugee Status Appeals Authority, who also has taught at Michigan Law and taken part in previous colloquia.

Haines and Hathaway also worked together last spring with Luis Peral, a professor in Madrid and a research scholar at the Law School a few years ago, to develop and lead the first Cuenca Colloquium on International Refugee Law at Universidad Internacional Menendez Pelayo in Spain. Hathaway, president of the Cuenca colloquium, explained that the program began with an education program for Ph.D. level law students, that then shifted into a policy making session for government and non-governmental leaders from throughout Europe. Participants dealt with issues like European cooperation, the problem of mass exodus, the definition of refugee, and refugee rights.

Participants were “working at an incredibly high level of expertise,” Hathaway reported, noting that “refugee issues are just hugely important in Europe now. After every session the media wanted to know what was discussed.”

The Cuenca colloquium is “essentially a collaboration born at Michigan,” Hathaway added, noting that he, Peral, and Haines began to develop the outline of the colloquium when Peral was a research scholar at Michigan Law and Haines was here as a visiting professor. “It’s a nice Michigan story.”

(An excerpt from Hathaway’s most recent book, The Rights of Refugees, begins on page 71.)
Michigan Law is fortunate to include among its teachers three Affiliated Overseas Faculty members who come to the School to teach special, concentrated courses, present lectures, and participate in other activities. These scholars are renowned within and beyond their home countries and universities.

Affiliated Overseas Faculty scholars, who are renowned within and beyond their home countries and universities, are:

Christine M. Chinkin, a professor of international law at the London School of Economics and Political Science, University of London. She is an internationally respected scholar of public international law, alternative dispute resolution, international criminal law, human rights (especially women’s human rights), and the intersection of feminist jurisprudence and international law. She holds an LL.B. with honors and an LL.M. from the University of London, a second LL.M. from Yale, and a Ph.D. from the University of Sydney.

J. Christopher JcCrudden is Fellow and Tutor in Law at Lincoln College, Oxford, and Professor of Human Rights Law at the University of Oxford. He holds an LL.B. from Queen’s University, Belfast, an LL.M. from Yale, and a D. Phil. from Oxford. He specializes in human rights and currently concentrates on issues of equality and discrimination and the relationship between international economic law and human rights.

Bruno Simma, a judge on the International Court of Justice, has served as dean of the Munich Faculty of Law and director of the Institute of International Law at the University of Munich. He is a member of the Court of Arbitration in Sports of the International Olympic Committee, is co-founder of the European Society of International Law, and is co-founder and co-editor of the European Journal of International Law.

Affiliated Overseas Faculty members combine academic research and scholarship with significant activity in legal, human rights, and other fields. Asked about her recent international activities, for example, Chinkin reported that “I am a member of a study group on the Human Security doctrine. This led to a report on a human security doctrine for Europe, which was presented to the European Parliament in 2005 and [resulted in] a book by the same name (Routledge, 2006). I have a chapter in the book on an International Legal Framework for Peace and Security. The study group is now continuing its work at the behest of the Finnish government.

“And I am working on a project for the UN Development Program evaluating their post-conflict programs in light of human security criteria.”
She also is co-author of the book, *How International Law is Made*, which will be published by Oxford University Press in 2007, and has contributed to the UN Secretary-General’s study on violence against women, which will be submitted to the General Assembly.


She also is director of studies for the International Law Association.

Earlier this year, Queen’s University in Belfast, where McCrudden grew up and earned his first university degree, awarded him an honorary doctorate of laws, noting that “he has had, and continues to have, considerable influence on official thinking and practice, having served on several government committees including the Northern Ireland Standing Advisory Commission on Human Rights and the European Commission’s group of legal experts on equality law.”

McCrudden “helped to ensure that the human rights and equality commitments contained in the Belfast Agreement were accurately reflected in the Northern Ireland act [of] 1998,” Professor Colin Harvey said in his delivery of the honorary degree citation. “As a graduate of this university who has gone on to establish a global reputation for his outstanding work on equality, discrimination, and human rights law, it is only right that his home institution, honors him,” Harvey added.

McCrudden serves as a specialist advisor to the British House of Commons’ Northern Ireland Affairs Committee, is a member of the Procurement Board for Northern Ireland, is a member of the editorial boards for several journals, and serves on the European Commission’s Expert Network on the Application of the Gender Equality Directives. He is the first scholar to be named Professor of Human Rights Law at Oxford.

For Simma, “as a judge of the International Court of Justice, I am of course limited in what I do ‘on the side,’ as it were. . . [but] I regularly act as an arbitrator at the Court of Arbitration for Sports in Lausanne and have also served as an arbitrator in a recent arbitration between Belgium and The Netherlands concerning the so-called Iron Rhine case.”

He recently received an honorary doctorate from the University of Macerate (Italy) and was elected an associate member of the renowned Institut de Droit International.

In addition, he is continuing international legal research and writing, among other issues about the consequences of the LaGrand and Avena judgments [involving foreign nationals’ access to their countries’ consulates if charged with an offense] for the U.S. judiciary, and frequently lectures in various European countries and receives student groups from a variety of countries at The Hague.

Simma lectured on “The International Court of Justice: An Insider’s View” as part of the Law School’s International Law Workshop speakers series in October.
People, times, Law School leadership join to launch South Africa program

By David I. Chambers

How did the South African externship program start? Through a fortuitous coming together of people, the times, and Law School leadership.

In February 1996, a young AIDS activist from South Africa named Zackie Achmat came to the United States for several weeks and spent some time in Ann Arbor. Zackie was then working with the AIDS Law Project at the Centre for Applied Legal Studies at the University of the Witswatersrand (Wits) and went on to found the Treatment Action Campaign that successfully pressured the South African government to begin supplying antiviral medications to people with HIV.

I was then teaching a seminar on the public policy response to HIV in the United States, and chatted with Zackie several times. In one of our conversations, we talked about the possibility that a Michigan law student might be interested in coming over to South Africa and working with his organization.

Within a few days, a law student named Ben Cohen, who had also talked to Zackie, approached me about sponsoring him for a one-term externship. I knew Ben as a fine student and said sure, forgetting that for a law student to receive credit for a term away from the Law School, Law School regulations (and the ABA) required that a professor from the Law School visit the site of the externship during the term. When I remembered the rule, I told Ben that it would be unaffordable for the Law School to send me to South Africa just to oversee one student. Ben’s quick and determined, and he immediately suggested that we see whether additional South African organizations might want students and whether additional Michigan students might want to go. I agreed that dividing the costs of sending me over to see 10 students might be easier for the dean to swallow than bearing it for one.

The short of it is that Ben was right. I flew to South Africa during spring break of 1996, and with guidance from Heinz Klug, a former African National Congress (ANC) activist and at the time a lecturer at Wits (now a professor of law at the University of Wisconsin), I located several private human rights groups that were eager for help and willing to try our students. Returning to Ann Arbor, I found, with Ben’s help, nine other students equally eager for the opportunity. And the dean said yes.

The first year had some bumps (two students found, for example, that the job I’d lined up for them had fallen through by the time they arrived and scrambled,
Externships

Externships, the semester-long assignments at human rights, government, and other agencies for which law students receive Law School credit after fulfilling academic requirements associated with the assignments, become an enriching part of many students’ legal education. Michigan Law has ongoing externship programs with the Aire Center, a legal aid center based in London, England, that works throughout the European Union, and in South Africa. In addition, many students fashion their own externships to serve in the United States and overseas at agencies like the U.S. Department of State, Office of the U.S. Trade Representatives, U.S. Department of Commerce, Overseas Private Investment Corporation, and others.

In these essays, South African externship program founder David I. Chambers describes the early days of the program, and former extern Barbara Hou, ’06, reflects on her experiences in South Africa. Hou’s essay is based on the final report that she filed with her supervising professor and appears here with permission. Participants in the program file biweekly reports during the course of the 13-week externship and then summarize their experiences and conclusions in their final reports.

Successfully, to find other placements, but every student returned enthusiastic about the term. Indeed, one returned for a second stint in South Africa after graduation. Another was so moved by her human rights work in South Africa that she asked the American law firm where she was planning to work after graduation to release her from her acceptance and take a job with a Neighborhood Legal Services program in Chicago instead.

In fact, many externs have found that participation in the South African program has proved to be a watershed experience: Some, like the woman who went to Chicago, found that the experience caused her to re-think—and re-direct—her legal career; others, like Cohen, found that it strengthened their initial desire to work in public service, human rights, or international law.

I decided to try it again the next year, and the next, gradually shaping an increasingly organized program. I visited South Africa for two or three weeks each fall both to visit the sites where the students were working and to hold a three-day workshop with them at which they each directed an hour’s conversation and presentation on the work they were doing or some aspect of their experience of living in South Africa that had especially intrigued or influenced them. During the same three weeks, I talked with new groups about sending students the next year.

Then, during the following winter, I held information sessions with students interested in applying and nailed down the available placements with the South African organizations. In most years, more students applied than there were placements available.

In a precedent that remains an important part of the program, I never picked the students who went. Rather, students prepared resumes and one-page cover letters for the organizations for which they wanted to work, I faxed the resumes and letters to the organizations, and they picked the students they wanted. In that way, I could remain the coach and cheerleader for all the applicants. So could my assistant, Trudy Feldkamp, who came to know the students nearly as well as I did.

After the second year of the program, I decided that students might be well served by having a formal introduction to the new South Africa legal system before beginning their externships. So in the winter semester I offered a course on the new South Africa constitution and the new Constitutional Court that had been created to interpret it and was industriously beginning to do so. Since then, nearly all students who have gone over (and a large number of others who were simply interested in the subject) have taken the course. I taught the course jointly with my wonderful friend, Karthy Govender, LL.M. ’88, Professor of Law, University of Natal, Durban, and Member of the South Africa Human Rights Commission. Professor Govender has continued to teach the course since my retirement three years ago.

In a precedent that remains an important part of the program, I never picked the students who went. Rather, students prepared resumes and one-page cover letters for the organizations for which they wanted to work, I faxed the resumes and letters to the organizations, and they picked the students they wanted. In that way, I could remain the coach and cheerleader for all the applicants. So could my assistant, Trudy Feldkamp, who came to know the students nearly as well as I did.

After the second year of the program, I decided that students might be well served by having a formal introduction to the new South Africa legal system before beginning their externships. So in the winter semester I offered a course on the new South Africa constitution and the new Constitutional Court that had been created to interpret it and was industriously beginning to do so. Since then, nearly all students who have gone over (and a large number of others who were simply interested in the subject) have taken the course. I taught the course jointly with my wonderful friend, Karthy Govender, LL.M. ’88, Professor of Law, University of Natal, Durban, and Member of the South Africa Human Rights Commission. Professor Govender has continued to teach the course since my retirement three years ago.
A new way to understand human rights

By Barbara Hou

Barbara Hou, ’06, served her externship in the Cape Town office of South Africa’s Human Rights Commission. She volunteered last summer in Uganda with an NGO involved in peace initiatives in the conflict-affected areas of northern Uganda.

My internship at the South African Human Rights Commission (SAHRC) was awesome. I have always believed that education and learning encompass far more than merely book-learning. Karthy Governder’s (South African legal scholar and Adjunct Professor Karthigasen Govender, L.L.M. ’88, a member of SAHRC) class on Constitutionalism in South Africa definitely provided a good background for the work I would be doing at the SAHRC, and it was also the first time I was able to really study in-depth another country’s legal system. Going to South Africa helped me contextualize the knowledge I gained from his class, and to apply my knowledge in a real world setting. At the SAHRC, I was able to attend parliamentary sessions in which members of parliament would debate on and discuss the provisions of proposed legislation, such as the Children’s Bill. I would then go back to the office and research specific issues of the bill that impacted human rights. My internship taught me a range of real life skills such as how not to get mugged, how to work with different people from different cultures, and how to organize a group of people to focus on pressing social issues.

I’m glad that Michigan Law had the vision to develop and sustain a vibrant study abroad program, and that I as well as my fellow law students were able to take advantage of this tremendous opportunity to live in and work in another country in an entirely different legal system. I think developments such as the Transnational Law course requirement, and a broad course curriculum in classes like Japanese Law, South African Constitutionalism, International Human Rights Law, etc. are some of the reasons that Michigan Law provides a superior legal education. As current news headlines indicate, we can no longer afford to live in a cocoon, isolated from an understanding of the perceptions and challenges that other countries face.

Judith Cohn, our supervisor, was also a great person to work for and to learn from. She was always willing to take the time to explain the issues of a particular matter thoroughly. Even though I knew she was very busy, I never felt like she was too busy for me. She was also a good listener and I felt like my voice and opinions, and even questions and concerns, were seriously considered and valued. I felt like an equal member of the team. At our weekly meetings, Judith would always discuss her thoughts on a human rights issue and discuss how she was struggling with a particular concept and would solicit feedback from us, the interns. We would contribute our own thoughts, questions, and we could even openly challenge some of her ideas. She was always willing to listen to what we had to say. I always enjoyed our discussions.

I remember one time we talked about language in schools. In South Africa, many of the black South Africans learn a native language in the home before going to school. For example, a child might grow up speaking Xhosa or Zulu in the home before entering school. The question posed was how schools should incorporate lessons in the native language. This issue is similar to bilingual education issues, especially in states like California. Do you require instruction in English, when the students don’t know any English when they enter the school system and risk that the student learns English at the expense of the substantive subject matter? Or do you require instruction in the native language so that the child can understand...
the substance of what is being taught, but risk that English language skills will be poorly developed? I felt good that I was able to relate to the Parliamentary Unit some of my understanding of bi-lingual education issues in the United States and to apply some of that understanding in the South African context.

The nature of my assignments was both substantive and procedural. In terms of substantive assignments, I worked on several different human rights issues and had to research the arguments surrounding the issue and draft memos for Judith so that she could get a quick survey of all the issues surrounding a particular topic. I was able to research issues as interesting as virginity testing, or as important as a right to basic education. I also had the opportunity to write my own submission on the Genetically Modified Organisms Amendment Bill.

Being at the Commission made me realize that some things that I did not initially consider human rights issues are actually extremely important human rights issues. For example, the right to access to information was one right that initially I did not think of as a human rights issue. But now I do think that such things are important for furthering human rights, especially as a due process matter. I also learned more about international law because the South African Constitution mandates the consideration of international law, and at times foreign domestic law. So, I didn’t just learn about South African law, I also learned about Indian law, international law, and the laws of other similarly-situated African countries.

I also had the best of all worlds in terms of the subject matter of the work that I did. Because I was at the Human Rights Commission, I was able to work on all sorts of issues related to human rights. I didn’t just work on gender issues, or land issues, or educational issues. I received exposure to all those issues and more. Being in Cape Town was also fantastic, both for touring and living. So many talks, seminars, workshops, and community events were held in Cape Town and I was always encouraged and enabled to attend those events.

Ten years from now, I’m sure that I will have forgotten the rule against perpetuities, the four components of a tort case, the difference between all the different types of murder in criminal law, etc. But my experience in South Africa will stay with me for the rest of my life. I met incredible people, made incredible friends, and learned so much about a different culture and legal system. It gives me hope that we can go about doing what we do in perhaps a slightly or even drastically different way to achieve the goals that we want.

In the end, I think you get out of the externship what you put into it and what you decide for yourself that you want to get out of it. I knew that I was very lucky to have such an opportunity, and I really tried to appreciate every moment and learning opportunity that I was presented with. Even just chatting with Babalo, a South African intern at the SAHRC, on our five-minute walk from Parliament back to the office gave me a deeper understanding and appreciation of the complexities of human rights issues. I remember walking down the street one day and Babalo told me that in her culture, some women cut off a bit of their pinky finger as part of their culture (this is done when they are young girls). I couldn’t believe it. But we walked down the street and sure enough, Babalo pointed out two women who had this procedure done to them.

Is that a human rights issue? I still don’t know. It’s funny because Babalo, who works at the Human Rights Commission, doesn’t think it is. The line is fuzzy for me. Even now I’m still not sure. I guess that was a valuable lesson, too: that human rights issues are culturally defined. I always knew that, but to experience it firsthand gave me a very real appreciation of cultural relativism arguments and has forced me to closely examine and question what we consider a human rights problem. I’m thankful to Michigan for my externship opportunity, and to those in South Africa who took me under their wing to explain to me more about their culture. I only hope that I will have more of such opportunities and that in the end we can fashion workable solutions that further human rights while preserving the different cultures that make this world so fascinating.
An enormous stained-glass window dominates the Great Hall of Justice, the main chamber of the International Court of Justice (ICJ) in The Hague. A gift from the British Commonwealth, its four massive panels tell the story of the development of international peace through law. The first panel represents a past era of anarchy and disorder, where violence prevailed over law. The final panel depicts a future international utopia, where strict adherence to the rules of international law lead to everlasting peace. It is left to each observer in attendance at the court to judge how far along that progression the world has come.

I sat pondering that question last December, as the court read its decision in *Congo v. Uganda*. Seventeen judges in full regalia assumed their positions facing the audience. The legal teams for the two states involved in the dispute took their seats immediately facing the judges. Slowly, the president of the court began to read from the judgment of over 100 pages. It is practice at the ICJ for judgments to be read in a public sitting, with the parties present and represented by high-level government agents. Everyone concentrated to make out the words of the judgment, which found that Uganda had violated the principles of non-use of force and non-intervention, violated its obligations under international human rights law and international humanitarian law, and illegally exploited Congolese natural resources.

As I have prepared for what I hope becomes a career in international law, my faith in the international legal order has often been challenged. In many contexts, the prevailing sentiment regarding international law is guarded skepticism about its real-life applicability. I have been told time and again that international law is not “real” law, or that it does not exist at all. I wish all such doubters could have been present that day in the Great Hall of Justice, to hear the court’s findings, which were clear, pertinent, and timely. One could not help but wonder how that day’s judgment would contribute to the overall evolution of international law depicted on the stained-glass windows above. As the states formally accepted the court’s conclusions, I was left feeling hopeful. This was international law in action: Two sovereign states had come here to have their differences settled by expert judges according to rules of treaty and custom, rather than through continued blood and death on a battlefield.

I was present at the court as part of the ICJ University Traineeship Program, where I acted as a law clerk for Judge Bruno Simma (of Germany, one of Michigan Law’s Affiliated Overseas Faculty) and Judge Abdul Koroma (of Sierra Leone). The ICJ Traineeship Program is the first major clerkship program of its kind at the principal judicial organ of the United Nations.

Open to only 10 law schools throughout the world, including Michigan, it accepts one graduate (or, in exceptional circumstances, two graduates) from each school per year to serve nine-month clerkships at the court. Michigan joined the program in 2004, sending Carsten Hoppe, ’04, and Sonia Boutillon, ’03, to the court. I represented Michigan in the 2005-06 year, and Marko Milanović, LL.M. ’06, is Michigan’s clerk for the 2006-07 year. The daily work of a law clerk at the ICJ is similar to that of a clerk in any other court, consisting primarily of legal research and drafting on issues pertinent to pending cases; the primary difference is that the body of applicable law is public international law, made up of treaties, custom, and general principles, with a nod also to the opinions of the most highly qualified publicists in international law. Because the specifics of court work are subject to confidentiality requirements, I would like to share several general observations on the court.
When I speak with people about my clerkship, I have noticed two recurring misconceptions in the public understanding of the ICJ. First, there is general confusion about what the ICJ is and what it does. Although it is the principal judicial organ of the United Nations, it is not the best known Hague tribunal among the general public, due in large part to extensive media coverage of two other such tribunals, the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Court (ICC). The ICTY was trying Slobodan Milošević for genocide and war crimes in a high profile trial cut short by his premature death last March, and it continues to try other alleged perpetrators of the violence in the former Yugoslavia. The ICC is a permanent court established to try individuals for international crimes, with a principal judicial organ of the United Nations, created by the United Nations Charter and functioning since 1946. It is the only public international court with general subject matter jurisdiction, adjudicating upon the full gamut of substantive public international law rules. Only sovereign states can be parties before the ICJ—it is not open to claims by or against individuals. Judgments of the ICJ can be enforced by operations authorized by the UN Security Council.

The second common misconception is that the United States does not participate as a litigant before the ICJ. This belief, also fueled by media attention concerning U.S. opposition to the ICC, could not be further from the truth. Although the United States withdrew from the ICJ’s compulsory jurisdiction in 1986, it is a party to many treaties containing clauses selecting the ICJ as the required forum for disputes of treaty interpretation or application. Consequently, the United States has appeared before the court more than any other single litigant, and many of the most important ICJ cases have included the United States as a party. To cite one example, in the Case Concerning United States Diplomatic and Consular Staff in Tehran (United States v. Iran), the ICJ concluded that by failing to act when Iranian militants attacked the U.S. embassy in 1979, occupied the premises and subsequently detained 52 American hostages in the embassy for 14 months, Iran violated its international legal obligations to the United States. The 1980 judgment ordered the release of the hostages and payment of reparations by Iran. The hostages were released in 1981, the United States froze Iranian assets, and the Iran-U.S. Claims Tribunal was established to hear individual claims arising out of the conflict. The United States has also litigated cases against France, Hungary, Bulgaria, Czechoslovakia, Switzerland, the Soviet Union, Canada, Italy, Libya, Paraguay, Germany, Yugoslavia, and most recently, Mexico. Thus, although the United States has refused to join the ICC and although many recent U.S. foreign policy actions have been decidedly unilateral, the United States has historically—and even recently—been a frequent and important litigant at the ICJ.

This year marks a monumental time at the ICJ: Not only did the institution turn 60 amidst celebratory fanfare attended by the Queen of The Netherlands and UN Secretary-General Kofi Annan, the court is also facing its biggest challenge in recent history in the case of Bosnia and Herzegovina v. Serbia and Montenegro. The case requires the ICJ to judge the complex question of state responsibility for genocide, a question which has laid dormant during the 60-year history of both the Genocide Convention and the court. Thus, whereas the ICTY is trying individuals for their role in the heinous events in the former Yugoslavia, the ICJ has now set out to determine whether there is enough evidence to establish that those acts, taken cumulatively, constituted a genocide which can be attributed to the state of Serbia and Montenegro (formerly the Federal Republic of Yugoslavia). The scope of this task is enormous, involving consideration of all the myriad facts making up an individual
Continued from previous page

genocide trial, raised to the nth degree so as to assess their cumulative effect. Thus, when people mistake the ICJ for the tribunal that was trying Milosevic, they are only half wrong: The ICJ is not trying the individual, but it is examining the actions of the Serbian government. Never before has the court been called upon to judge state responsibility for genocide under the convention, and its conclusions will shape the future role of the court and of international law itself. It is an extremely contentious issue because it raises the possibility that a state can be accused of an international crime, a taboo subject among international lawyers since 2000, when the notion of "state crime" was expressly removed from the Draft Articles on State Responsibility. The Court is now forced to confront the controversy head-on.

The ICJ Traineeship Program provided me a glimpse into a truly rarefied institution, one which for 60 years has been inhabited almost uniquely by the aging experts in public international law, never before by freshly-minted law graduates like myself. But it is in fact fitting that the ICJ has begun reaching out to law students in this way, because it is from teaching posts at law faculties that many of the judges have come. The current president of the court, Rosalyn Higgins, is no exception. President Higgins, in her former role as law professor, famously taught scholars of international law to "reject the notion of international law merely as the impartial application of rules" for an understanding of international law as a "decision-making process." I thought back to this lesson on one of my final days at the court, and it was at that moment when I finally realized why I could never pin down exactly which of the stained-glass panels in the Great Hall of Justice represented the current state of international law. The "process" that is international law is not well-represented by a linear progression. The world is simultaneously in the first panel and the last, and international law is the system of decision-making available to all actors to move us towards the final panel each time we drift in some way towards the first.

This year as part of the University Traineeship Program, I was able to be a part of the process of international law, in relation to both the Great Lakes region of Africa and the former Yugoslavia. In both of these cases, I cannot help but think that President Higgins’ words speak also to those doubters of international law and its institutions. The ICJ will never solve all of the problems in those regions or any other region. But an institution which continues with significant success to address complex disputes in many regions of the world should not be faulted merely for failing to achieve a more absolute success. As President Higgins has taught us, success is in the process, and that process must always continue. An essential part of that process is the education of young lawyers in public international law; to this end, the University Traineeship Program offers an unparalleled new development.
DeRoy Visiting Professors offer international insights

European Community law specialist and former European Court of Justice Advocate General Walter van Gerven especially enjoys visiting and teaching at Michigan Law, he says, because its faculty and students are more knowledgeable about European law than he finds at most other places in the United States.

As the Helen R. DeRoy Visiting Professor at Michigan Law, the Belgium-based van Gerven also contributed to the continuing vitality of that tradition by sharing his experience, expertise, and scholarship with faculty and students alike during his 11-week stay here this fall.

"Because of Eric Stein and others, Michigan is at the first level among top universities in its interest in European law," van Gerven explained. His seminar, EU: A Polity of States and Peoples, was a weekly reminder of the liveliness of that interest, he said. The seminar’s title reflects van Gerven’s conviction that Europe’s long history of distinct nations and separate peoples and languages makes it unsuitable for a U.S.-style presidential system.

"The seminar attracted not only the interest of American students, but also of foreign students" he reported. "So when we have class discussions it is very interesting and lively."

Students in the seminar agreed, adding that it was especially valuable to have a European with the first-hand experience of van Gerven teaching the seminar and initiating discussion.

Van Gerven’s visit to Michigan Law as a DeRoy Visiting Professor continued a longstanding program that brings overseas scholars to the Law School to teach, present public lectures, and participate in other activities. In 2003, for example, Rodger Haines, of Auckland University in New Zealand and a member of his country’s Refugee Status Appeals Authority, visited as a DeRoy Professor. This fall he returned to moderate the biennial Colloquium on Challenges in International Refugee Law, which is part of the Law School’s Refugee and Asylum Law Program. (See story on page 18.)

Among other recent DeRoy Visiting Professors:
• Gareth H. Jones, of Trinity College, Cambridge;
• Dan Sperber, of the Centre de Recherche en Epistemologie Applique, of the Ecole Polytechnique in Paris;
• Philip G. Alston, professor and director of the public law program at the Center for International and Public Law, Australian National University, Canberra;
• Jochen Abr. Frowein, LLMCL ’58, professor at the Max Planck Institut fur Auslandisches und Internationales Privatrecht, Heidelberg;
• Yoichiro Yamakawa, M.C.L. ’69, Koga & Partners, Tokyo.

The Helen L. DeRoy Visiting Professorship is funded by the Detroit-based DeRoy Testamentary Foundation.

“Does the European Union Really Need a Constitution?” and lectured at the University of Michigan’s International Institute on “Which Form of Government for the European Union?”

Yes, he answered in his ILW lecture and a subsequent interview, the European Union does need a constitution, even though many things that a constitution typically provides for, like a universally elected parliament and executive accountability, already exist.

The current proposal, whose “gestation period was too short,” should be abandoned as too long, unwieldy, and redundant, he explained. But “the body politic needs a flag, an anthem, a motto (all of which the EU has). It also needs a constitution.”

As to what form an EU government should take, he told the International Institute, it should be a parliamentary system with the European Commission as the executive whose democratic legitimacy stems from citizen involvement in parliamentary elections.
The fusing of the international with the domestic is nowhere more apparent than in the conferences and symposia being held at Michigan Law this academic year. Like this country itself, with its blending of people from national backgrounds throughout the world, these gatherings of scholars, legal practitioners, and government and business leaders reflect the mingling of domestic and foreign experience that is blurring boundaries and bringing peoples closer together.

From an in-depth examination of technology’s impact on copyright, with participants from both sides of the Atlantic, to a gathering of international jurists to be held here in May, the globalized import of many legal issues regularly comes under the microscope here at the Law School.

Even next spring’s four-day symposium celebrating the 30th anniversary of Michigan Law’s Child Advocacy Clinic includes a major session on child welfare and children’s rights around the world and features an address by the chairman of the UN Committee on Children.

This academic year began, in fact, with two conferences on international subjects taking place simultaneously, one investigating Patents and Diversity in Innovation, the other examining issues facing the Great Lakes.

Participants in the symposium Patents and Diversity in Innovation, held September 29-30, wrestled with issues raised by the growing gap between discrete product technologies like pharmaceuticals and complex product technologies like those in the field of information technology. The symposium was co-organized by Rebecca Eisenberg, the Law School’s Robert and Barbara Luciano Professor of Law.

Conferences, symposia embrace the world view

While such issues often are considered to be domestic in nature, technology and the globalization of trade in products as well as ideas have given them growing international significance. “In the United States, recent efforts to craft patent reform legislation reveal deep inter-industry divisions, with the information technology sector favoring a number of reform provisions adamantly opposed by the pharmaceutical and biotechnology industries,” according to symposium organizers. “In Europe, there has been intense political controversy over whether and how to extend the scope of patentable subject matter to areas of innovation outside of traditional technologies. The controversies . . . have been framed differently in the United States and Europe, but they share a common need for expanded evidence-based answers and a deeper understanding of how the patent system can work to better foster innovation.”

On September 29 specialists from the United States and Canada gathered here to ponder and hopefully help preserve the future of the Great Lakes, the glacier-carved containers that hold one-fifth of the world’s fresh water, a resource eyed ever more enviously by much of the rest of the United States and the world.

"Federalism and international law concerns are at the forefront of every issue related to the Great Lakes region,” conference organizers noted, and “local water shortages combined with a growing awareness of the water-envy emanating from other parts of the world have induced a coalition of state, national, provincial, and tribal governments to work together to improve the limited legal framework currently available to protect the Great Lakes from large-scale, long-distance diversions.”

Forming a significant portion of the U.S.-Canadian border, the Great Lakes are a living laboratory for the practice and development of international environmental law. One conference session, for example, dealt with the roles of federal and state governments in relation to international actors.

Other conferences and symposia this academic year focusing on international issues or including international components include:

• First International Network for Tax Research conference on Taxation and Development, held November 3-5 and hosted by the Law School. This was the first conference to grow out of an Organization for Economic and Community Development gathering at the Law School last spring organized by Irwin I. Cohn Professor of Law Reuven Avi-Yonah, a renowned international tax law scholar who directs Michigan Law’s LL.M. international tax program as well as the Law School’s faculty exchange with Tsinghua University Law School in China.

• Intelligence Gathering and International Law, a conference on February 9-10, 2007 sponsored by the Michigan Journal of International Law and thought to be the first formal inquiry into the issue by a gathering of scholars. Explain the organizers: “Despite the strong and growing salience of intelligence in international affairs, international law is largely silent on intelligence collection and dissemination. While states may regulate intelligence gathering domestically, no significant treaties or conventions address the process, nor is it
Works in progress

Hessel E. Yntema Professor of Law Mathias W. Reimann, LL.M. ’83, foreground at right, moderates a discussion of in-progress articles on comparative law subjects at a conference of scholars at the Law School earlier this year. Reimann, an editor-in-chief of the American Journal of Comparative Law, and Jacqueline Ross of the University of Illinois College of Law organized the inaugural gathering to offer scholars the opportunity to discuss with researchers in the same field the works they are preparing but have not yet completed. “While there is a large, and growing amount of comparative law scholarship in the United States, there is no regular opportunity for comparative law scholars to meet and discuss work in progress in any depth,” according to Reimann. “The scholarly programs at other meetings usually aim at the presentation of finished papers on a given topic with very limited, if any, time for discussion.” The Michigan Law workshop responds “to the need for a forum in which comparative law work in progress can be explored among colleagues in a serious and thorough manner that will be truly helpful to the respective authors,” Reimann said. Participants discussed works in progress by scholars from the University of Illinois Law School; Cravath, Swaine & Moore LLP in New York; University of Pittsburgh School of Law; Temple University; Yeshiva University; and New York University Law School. Future conferences will alternate each year between Michigan Law and the University of Illinois College of Law.

The Child Advocacy Law Clinic 30th Anniversary, March 29-April 1, 2007, is both a reunion of former students associated with the pioneering clinic and a symposium on child protection that brings to the Law School many of the world’s best-known experts in child protection issues. In contemporary life, many areas of child protection, like international adoption and issues of nationality, regularly involve an international component. A special session on the conference’s first full day, March 30, will be devoted to Child Welfare and Children’s Rights Around the World; among the speakers will be Jaap E. Doek, chairman of the UN Committee on Children.

The International Jurists Conference will convene at the Law School in May 2007, bringing judges from Europe and elsewhere together in an American setting. Sponsored by the Furth Family Foundation, a philanthropic arm of the family of Fred Furth, ’59, and the Law School, the annual conference took place in Prague in May 2006 and in Kiev in 2005. It is one of the world’s top gatherings of jurists and offers judges from different countries and legal systems the opportunity to compare their courts and legal systems and note the similarities and differences of the issues they face.
Opportunities abound for international enrichment

Michigan Law maintains a variety of programs that provide opportunities for students and recent graduates to enhance their international experiences. Some students opt to spend a term studying at one of several universities abroad, others earn credit through externships in South Africa (see stories beginning on page 22) or elsewhere, student interns each summer work in Cambodia, and the list of opportunities goes on.

Other Law School programs, like the Helen De Roy Fellows program, the Jean Monnet Research Fellowships program, and the speaker series known as the International Law Workshop, regularly bring to Michigan Law some of the world’s top experts in international law, policy, trade, and other subjects.

Here are thumbnail sketches of some Law School programs that make up the international side of life at Michigan Law.

American Journal of Comparative Law
After an absence of many years, the journal has returned to Michigan Law, where American Society of Comparative Law founder and legendary Michigan law professor Hessel E. Yntema ran the journal until his death in 1966. Michigan Law professor Mathias W. Reimann, LL.M. ’83, is an editor-in-chief of the journal.

Clara Belfield & Henry Bates Overseas Fellowships
Through the generosity of Helen Bates Van Thyn, the Law School has an endowment for assisting recent graduates or law students who have completed two or more years of legal studies to travel abroad for study or work. Fellowship winners have pursued legal studies abroad and served professional internships with international or government agencies, non-governmental organizations, law firms, and other institutions in foreign countries. Bates Fellowship winners for 2006 are: Felix Chang, ’06, for study with the Belgrade Center for Human Rights, the Center for Democracy and Human Rights in Montenegro; Sarah Chopp, ’06, for work at the East West Management Institute for Human Rights in Cambodia Project; Khelia Johnson, ’06, for work with the Strategy and Policy Unit of the International Telecommunication Union in Geneva, Switzerland; and Maria Rivera, ’05, who is working in the chambers of Advocate-General Miguel Polares Maduro at the European Court of Justice in Luxembourg.

Dual Degrees
Law students interested in specific geographic areas or professional specialties often earn an additional advanced degree while pursuing legal studies. Michigan Law offers more than a dozen of these dual degree programs, in which the student works toward both degrees at the same time. While nearly any of these dual degree programs can enhance a student’s preparation for working in the international arena, a number of the programs arm the student with specific knowledge of law and a distinct area of the world. Among them are Law and Chinese Studies (the newest of the dual degree programs), Law and Japanese Studies, Law and Modern Middle Eastern & North African Studies, Law and Russian & East European Studies, and Law and World Politics. Each of these dual degree programs leads to the J.D. in conjunction with a master’s degree in study of the specialized geographic area. Students pursuing a dual degree benefit from the Law School’s location at the heart of the University of Michigan, a major international research university.

Graduate Degrees
The University of Michigan Law School has a long and proud tradition of welcoming international students for graduate legal studies. The Law School offers four graduate degree programs: The L.L.M., the International Tax LL.M., and the M.C.L. (Master of Comparative Law), each one-year programs, and the S.J.D. (Doctor of the Science of Law), for which completion of the L.L.M. is required.

Externship Program
Michigan Law maintains one-semester for-credit externship programs in South Africa (see stories beginning on page 22) and with the AIRE Center in London, England, and students also fashion their own individualized programs to provide advanced training or research opportunities. With assistance from Michigan Law faculty and staff members, students have developed externships with the U.S. Department of State, the Office of the U.S. Trade Representatives, U.S. Department of Commerce, the Overseas Private Investment Corporation, and others.

International Court of Justice University Traineeship Program
Michigan Law is one of a small, select group of law schools eligible to sponsor graduates’ applications for one of the 10 available spots in the International Court of Justice’s nine-month University Traineeship Program in The Hague. Michigan Law has placed four applicants during the three years it has participated. (See story on page 26.)

International Law Workshop
This speakers series features Michigan Law faculty members and renowned overseas scholars lecturing on issues of import and interest on the international front. This fall’s schedule of speakers included:
• Former European Court of Justice Advocate General and Katholieke University Leuven (Belgium) Professor Walter van Gerven (see story on page 29),
Speaking on “Does the European Union Really Need a Constitution?”

- Renowned international scholar and equal rights advocate Catharine A. MacKinnon, the Law School’s Elizabeth A. Long Professor of Law, speaking on “Women’s Status, Men’s States” (story on page 16);

- H.E. Judge Bruno Simma of the International Court of Justice and an Affiliated Overseas Faculty member at the Law School, discussing “The International Court of Justice: A View from the Inside.”

- Catherine Powell, co-faculty director of Fordham Law School’s International Human Rights Program, discussing “Tinkering with Torture: Testing the Relationship Between Internationalism and Constitutionalism”;

- Law Professor Lawrence R. Helfer, director of Vanderbilt University Law School’s International Legal Studies Program, speaking on “The Law and Politics of Treaty Withdrawals”; and

- New York University School of Law Professor Jerome A. Cohen, senior partner with Paul, Weiss, Rifkind & Garrison and adjunct senior fellow for Asia studies at the Council on Foreign Relations, speaking on “Does China Have a Legal System?”

Jean Monnet Research Fellowship Program
Made possible by the Milton and Miriam Handler Foundation, this fellowship provides support for a law professor to spend six months at the Law School conducting research and writing a publishable paper on European integration. The project is operated in conjunction with the University of Michigan’s European Union Center and coordinated by Professor of Law Daniel Halberstam, a founder of the center. Fellows for 2006 are Hilde Caroli Casavola of the University of Molise (Italy) Faculty of Economics and Vassilis Hatzopoulos of Democritus University of Thrace (Greece); 2007 fellows are Iyiola Solanke of Norwich Law School, University of East Anglia (England) and Leone Niglia of the University of Aberdeen (Scotland) School of Law.

Michigan Fellowships in Refugee and Asylum Law
An integral part of Michigan Law’s Refugee and Asylum Law Program (see story on page 18), these fellowships offer top students summer internships at one of six partner organizations on three continents.

Michigan Journal of International Law
Work on the student-run Michigan Journal of International Law, the seventh most-cited international legal scholarly journal in the world, offers the opportunity to become better acquainted with the world of renowned scholars in the international law field while honing editorial skills and perhaps working on organization and execution of a conference or symposium. The Journal of International Law is hosting a symposium on intelligence gathering and international law in February. (See story on page 30.)

Pro Bono Cambodia Project
Part of the Law School’s Program for Cambodian Law and Development, the Pro Bono Cambodia Project offers summer internships for law students to provide research assistance to groups in Cambodia. In cooperation with the University of Michigan’s International Institute, the pro bono project offers internships to students of law as well as students in fields like urban planning, public policy, public health, social work, or business. Last summer, interns worked with the Khmer Institute for人权 and equality advocate Catharine A. MacKinnon, the Law School’s Elizabeth A. Long Professor of Law, speaking on “Women’s Status, Men’s States” (story on page 16);

- H.E. Judge Bruno Simma of the International Court of Justice and an Affiliated Overseas Faculty member at the Law School, discussing “The International Court of Justice: A View from the Inside.”

- Catherine Powell, co-faculty director of Fordham Law School’s International Human Rights Program, discussing “Tinkering with Torture: Testing the Relationship Between Internationalism and Constitutionalism”;

- Law Professor Lawrence R. Helfer, director of Vanderbilt University Law School’s International Legal Studies Program, speaking on “The Law and Politics of Treaty Withdrawals”; and

- New York University School of Law Professor Jerome A. Cohen, senior partner with Paul, Weiss, Rifkind & Garrison and adjunct senior fellow for Asia studies at the Council on Foreign Relations, speaking on “Does China Have a Legal System?”

Jean Monnet Research Fellowship Program
Made possible by the Milton and Miriam Handler Foundation, this fellowship provides support for a law professor to spend six months at the Law School conducting research and writing a publishable paper on European integration. The project is operated in conjunction with the University of Michigan’s European Union Center and coordinated by Professor of Law Daniel Halberstam, a founder of the center. Fellows for 2006 are Hilde Caroli Casavola of the University of Molise (Italy) Faculty of Economics and Vassilis Hatzopoulos of Democritus University of Thrace (Greece); 2007 fellows are Iyiola Solanke of Norwich Law School, University of East Anglia (England) and Leone Niglia of the University of Aberdeen (Scotland) School of Law.

Michigan Fellowships in Refugee and Asylum Law
An integral part of Michigan Law’s Refugee and Asylum Law Program (see story on page 18), these fellowships offer top students summer internships at one of six partner organizations on three continents.

Michigan Journal of International Law
Work on the student-run Michigan Journal of International Law, the seventh most-cited international legal scholarly journal in the world, offers the opportunity to become better acquainted with the world of renowned scholars in the international law field while honing editorial skills and perhaps working on organization and execution of a conference or symposium. The Journal of International Law is hosting a symposium on intelligence gathering and international law in February. (See story on page 30.)

Pro Bono Cambodia Project
Part of the Law School’s Program for Cambodian Law and Development, the Pro Bono Cambodia Project offers summer internships for law students to provide research assistance to groups in Cambodia. In cooperation with the University of Michigan’s International Institute, the pro bono project offers internships to students of law as well as students in fields like urban planning, public policy, public health, social work, or business. Last summer, interns worked with the Khmer Institute for
Law Library Director Margaret Leary is fond and proud of saying that whatever you want to study in law, in any jurisdiction, you can do with materials in Michigan Law’s library. The case is especially significant for the study of international and comparative law because the complexity of the field and the widespread nature of its research materials make Michigan Law one of the most complete single destinations for such research.

CONCLUSION

World view reaches far and near

What if you want to study the European Union, for example. The Law Library is a repository for EU documents, making it an attractive site for study of what the EU is saying. But what if you want look into other aspects of the European Union?

• International public law? The treaties and other agreements that the EU’s 25 member states have signed with each other. The library has them, in the original languages and also in English.
• International law like the laws of the EU’s 25 individual member states? The library has them.
• The comparative law scholarship produced by those who have studied the similarities and differences of the laws of the different countries? The library has it.

The Law Library’s extensive collections of international and comparative materials rank it among the nation’s and world’s best. Scholars from the United States and abroad frequently come here to delve into its holdings, which many have said to be better than what is available to them in their home countries. Indeed, National Jurist magazine has ranked the Law Library fourth of 183 law libraries in the United States.

The library’s initial critical mass of international material was assembled over a 50-year period through the dedication and perseverance of Dean Henry Bates and Hobart Coffey, the latter regularly traveling the world to find collections of laws to bring home to Michigan. Today’s acquisition efforts have changed, but they are no less diligent. For example, the library collects court reports from all U.S. jurisdictions, Great Britain and the Commonwealth, and most European, Asian, and South American countries.

In many ways, the library is emblematic of the Law School, whose role as a center of international and comparative law scholarship is longstanding and dynamic. The previous pages only have highlighted aspects of this vitality. Internationalism and globalization touch us all, and virtually all faculty members, students, and graduates come face to face with such phenomena in their daily work. And many other faculty members devote all or much of their professional work to international issues. Among them are:

• Hessel E. Yntema Professor of Law Mathias W. Reimann, LL.M. ’83, a scholar of comparative law, is an architect of Michigan Law’s pioneering Transnational Law course, now a much-imitated requirement for Law School graduation. He also is an editor-in-chief of the American Journal of Comparative Law, the journal of the American Society of Comparative Law. International law scholar pioneer Hessel E. Yntema, who taught at Michigan Law from 1933-60, was the journal’s first editor-in-chief and ran the publication for 14 years, until his death in 1966. Last year the journal returned to Michigan after a long absence, “another signal of Michigan’s continuing commitment to the study of comparative and foreign law,” according to Riemann. “With its wide-ranging study-abroad, externship, and academic exchange programs, its Center for International and Comparative Law, and, last but not least, its large and growing number of faculty members focusing on international and foreign law, the Law School is once again an appropriate home for the American Journal of Comparative Law.”
• Professor Steven R. Ratner, who specializes in public international law, has written forcefully about the fallout from Hamdan v. Rumsfeld, in which the U.S. Supreme Court ruled last summer that trying detainees at Guantanamo Naval Base by military commission violates federal statute and U.S. treaty obligations.
• Professor John A.E. Pottow, whose research focuses on cross-border insolvency, regularly presents papers for INSOL International (International Association of Restructuring, Insolvency and Bankruptcy Professionals) and has been invited to advise on South Africa’s cross-border insolvency issues.
• Professor Rebecca Scott (see story on page 41), the Charles Gibson Distinguished University Professor of History, co-directs the international Law in Slavery in Freedom Project, which works closely with scholars in France,
Germany, Brazil, and Cuba. “Because the phenomenon of chattel slavery itself had such a strong international dimension, research on these questions benefits from an international team and multiple archives,” she notes. Scott’s co-director of the project is Martha S. Jones, an assistant professor of history and a visiting faculty member at the Law School.

- Irwin I. Cohn Professor of Law

Reuven Avi-Yonah, who oversees the Law School’s L.L.M. international tax program and the faculty exchange program with Tsinghua University Law School in China (see story on page 9), teaches regularly in China, Argentina, and Israel.

Indeed, in addition to the faculty members who have participated in Michigan Law’s teaching exchanges with universities in China and Japan, many members of the faculty have taught as visiting professors at universities around the world, like Thomas G. Long Professor of Law William I. Miller, who will be a visiting professor at St. Andrews University in Scotland during the first half of 2007. (See story on page 45.)

Many other faculty members find themselves drawn into international law activities through the connections forged by their domestic work. “Even those whose work focuses on domestic law are drawn to participate in transnational and international projects involving fundamental principles that undergird many legal systems,” notes Thomas M. Cooley Professor of Law Edward H. Cooper, who has advised American Law Institute projects like Principles of Transnational Procedure, International Jurisdiction and Judgments, and International Intellectual Property.

“My role has been to offer perspectives based on domestic United States procedure,” Cooper explains. “I have no foundation in transnational or international law.”

And sometimes a faculty member’s international experience can be just plain helpful. Take Clinical Professor Anne Schroth, for example, a founder of the Law School’s Pediatric Advocacy Initiative, which brings together legal, medical, and social work specialists to resolve the medical and other problems of poverty-stricken children before the issues associated with them reach the legal arena.

“I’m not involved in internationally oriented activities,” says Schroth, who has lived and worked in Guatemala. “But I do speak Spanish, and I use it to represent clients here in the United States, not for any international purpose.”

Another border crossed.