A Place in the World

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Place in
In 1890, the University of Michigan Law School granted its first LLM degrees, to two students from Japan.

Think about that for a moment. This was 1890, a year of steamship wrecks, van Gogh’s death, Nellie Bly’s trip around the world. Utah wasn’t a state yet, nor were Oklahoma, Arizona, or New Mexico. Stanford, basketball, and the diesel engine did not exist.

Which is to say, Michigan Law was an early player on the global landscape. Its presence grew through the years with the help of mid-century grants from the Ford Foundation for International Legal Studies. The grants funded projects on comparative business associations, comparative constitutional law, European institutions, insurance law, Japanese legal studies, law of emergent nations, and taxation—and, perhaps most importantly, paid for the hiring of legendary Professor Eric Stein, ’42, the late eminent scholar in international and comparative law.

One illustration of Michigan Law’s global strength in recent years has been the prevalence of graduates on the highest courts of their countries of origin. Programs such as the Geneva Externships and Bates Fellowships have trained students and recent graduates how to practice law in other countries. Courses and clinics at the Law School have allowed for the development and refinement of tools such as a blood-filtering device that saves the lives of new mothers in Ghana.

Read more about those stories in the pages that follow, which, collectively, serve as a snapshot of Michigan Law’s place in the world.
World Justice

Zdenek Kühn, LLM '02, SJD '06, was writing his dissertation about the judiciary in post-Communist countries, and it was critical of the development of the judicial system in nations where the legal culture for so long had been intellectually separated from the outside world. Even in the democratic era, he wrote, many justices lacked the necessary intellectual heft for the job, wrote Kühn.

Along the way, more than one person made a suggestion to him:
If you’re so critical of the system—including the nomination process for constitutional justices—why don’t you try it?

It wasn’t long before he had his chance.

In 2008, Kühn was appointed to serve on one of the top three courts in the Czech Republic, the Supreme Administrative Court. At the time, he was just 35 years old.

Kühn is one of many Michigan Law alumni serving on the highest court in his or her home country, or top of organizations such as the UN and the European Union.

The legacy is intertwined with Michigan Law’s history as a center of international and comparative law, says Susanne Baer, a justice on the Federal Constitutional Court of Germany. Baer understands the Law School from a variety of perspectives, previously as an LLM student (’93) and currently as a William W. Cook Professor of Law.

“This is the legacy of Eric Stein, in some way,” says Baer, referencing the late professor who was an eminent scholar in the field of comparative and international law and the father of legal scholarship on the European Union. “Transnational legal thinking, as both international and comparative work that cares more for solutions to a problem than for the difference among legal systems, which one may call post-nationalist—this is what is needed on the bench, at least in the highest courts today.”
In addition to Kühn and Baer, other alumni on high courts include Maria Lourdes P. Sereno, LLM ’93, chief justice of the Supreme Court of the Philippines; Miriam Defensor Santiago, LLM ’75, SJD ’76, judge-elect of the International Criminal Court; Peter Van den Bossche, LLM ’86, of the WTO Appellate Body; Il-Won Kang, LLM ’93, of the Constitutional Court of Korea; and the newly appointed Siniša Rodin, LLM ’92, of the Court of Justice of the European Union in Luxembourg.

They follow the likes of Lilia Bautista, LLM ’63, formerly of the WTO Appellate Body; Florenz D. Regalado, LLM ’63, and the late Hugo E. Gutierrez, LLM ’65, both formerly of the Supreme Court of the Philippines; and Gen Kajitani, MCL ’63, formerly of the Supreme Court of Japan.

Others with strong Michigan Law ties also have been judges on high courts—notably Bruno Simma, professor of law at Michigan, who until last year was a judge on the International Court of Justice—as well as former visiting professors such as Andreas Paulus of the Federal Constitutional Court of Germany and his fellow jurist Johannes Masing, a former Michigan Law visiting scholar.

Of Michigan Law being a feeder to high courts around the world, Baer offers this insight: “The legal realism I describe as a Michigan style may be very helpful for judges. The comparative tradition is helpful for sure. And the sense of commitment to society,” she says.

“In addition to that, we need the ability to critically reconsider what the law tells us, but with a deep sense for justice on the ground,” Baer adds. “This Law School offers a space to train lawyers to have good judgment, because you are confronted with complicated questions during your classes that you may have to answer for real tomorrow.”
A More Responsible World

The Growing Field of CSR Helps Companies to be Socially Conscientious and Manage their Business Risks Around the Globe

Say you’re an attorney working on corporate social responsibility (CSR) for a company that wants to drill for oil in the developing world. The government of the country says: Don’t worry; we’ll provide the security for your company while you’re here. But the government decides that security means, say, shooting a villager who gets near the pipeline. The rest of the village blockades the road to the pipeline in response to the killing. What do you do?

Or you’re an attorney doing CSR for a clothing manufacturer. You know that the immediate source of the clothing doesn’t use child labor or pay unfair wages, but what about the people working in other parts of the supply chain? Do you go out to the cotton fields to make sure no children are working there?

These are the kinds of questions that Gare Smith, ’83, grapples with every day. The chair of the corporate responsibility practice at Foley Hoag, LLP, Smith provides counsel on compliance programs to address labor conditions, community relations, security, indigenous rights, environmental stewardship, and the rule of law. His clients include companies in the manufacturing, extractive, banking, nuclear, private equity, and high-tech sectors as well as governments and indigenous peoples.

The field of CSR is a growing one, and one that Smith sees as a potential growth area for attorneys—especially those with an interest in working around the world. It’s also an area of the law in its infancy, so when Smith makes decisions about the questions posed at the start of this article, he is helping to establish precedents and best practices for others in the industry.

Smith, who has written three books on codes of conduct and international human rights standards, defines CSR as “a concept developed by businesses to address social and environmental challenges through sustainable practices and respect for international normative standards.” He believes that CSR is increasingly recognized as a mainstream business practice that helps to mitigate legal, reputational, and operational risks and to promote company brands.

CSR is indeed a broadening field that is bound to attract more people in coming years, says Tom Lyon, Dow Professor of Sustainable Science, Technology, and Commerce at U-M’s Ross School of Business. He defines CSR as going beyond what is required by law to deal with social or environmental issues. “For example, many companies are cutting carbon emissions domestically or abroad or are taking responsibility for offering health care in developing countries,” he says.
From Lyon’s point of view, though, it’s a field that makes more sense for graduates from business or environmental schools than for law school alumni. “When I think of CSR, I think of something that is extra-legal, not something that is the work of the legal profession,” says Lyon, also a professor in the School of Natural Resources and Environment.

David Uhlmann, on the other hand, sees a natural fit for lawyers interested in the field. “CSR reflects the enormous role that corporations have in all aspects of our economy and the moral imperative to exercise that influence in a way that involves doing well and doing good,” says Uhlmann, the Jeffrey F. Liss Professor from Practice and director of the Environmental Law and Policy Program at Michigan Law, who has spoken about CSR as it relates to resource exploitation and renewable energy.

“A significant component of that moral imperative is promoting a sustainable future, which means complying with environmental, health, and safety laws and conducting business activities in ways that limit the use of natural resources and minimize adverse ecological impacts—all of which requires legal expertise, innovative thinking, and strategic planning.”

For Smith’s part, his route to his path-breaking role took him through the public and private sectors. He served as principal deputy assistant secretary in the State Department’s Bureau of Democracy, Human Rights and Labor during the Clinton presidency, where he helped launch the president’s Model Business Principles and served as the U.S. representative to the UN Human Rights Commission; he was vice president for CSR at Levi Strauss & Co.; and earlier he was senior foreign policy adviser and counsel to Senator Edward M. Kennedy, where he created the first voluntary code of conduct for U.S. multinationals.

He also is vice chairman of the International Campaign for Tibet and works with His Holiness the Dalai Lama, whom he reveres—so much that Smith humbly asks that this article not focus too much on the work he does for the Dalai Lama.

Most of his clients are companies that want his help to engage in responsible practices. When he took his position at Levi Strauss in 1999, the field was so new that “I held one of only three corporate responsibility jobs in the United States,” Smith says. His focus was making sure the company didn’t inadvertently benefit from sweatshop conditions, much earlier than many others in the industry actively sought to address working conditions in sourcing facilities. He continues to work with other clothing manufacturers.

The extractive sector provides different challenges, such as the security example noted earlier. “In addition to obtaining a legal license to operate, I help clients secure a social license to operate,” he says. “This entails engaging with stakeholders who are impacted by a company’s operations to seek their buy-in. Part of that comes from ensuring that affected communities benefit from large-scale operations, and part comes from ensuring that if a project has negative impacts villagers have access to a transparent grievance process.” Smith believes that securing consent is particularly important with indigenous communities, as historically they have had little or no voice with respect to development projects impacting their traditional lands.

When Smith was a student at Michigan Law, the job he has now didn’t exist. Still, he was preparing for this work even then, developing his interest in international law under professors such as Eric Stein, ’42, William W. Bishop, ’31, and John Jackson, ’59.

In recent years, the line of work that Smith helped to forge has grown dramatically, and he predicts many more attorneys will choose the same path.

“The genie is out of the bottle with respect to corporate social responsibility,” he says. “It’s not as though consumers are likely to suddenly conclude that ‘it’s OK for children to make my shirts,’ and my corporate clients are as eager to avoid unnecessary risks as they are to ensure that their business decisions reflect well on their brands.”

Amount a $500,000 Ford Foundation for International Legal Studies grant in 1954 to the Law School would be worth today $4,27 Million
People in China and Ghana may never know it, but student lawyers from Michigan Law’s International Transactions Clinic (ITC) recently put together deals that are destined to improve or save lives in both places.

In April, thanks to Clinic students and faculty, a startup created by recent U-M grads became the first for-profit corporation in Michigan to expressly state its social mission in its articles of incorporation. That means company officers for Design Innovations for Infants and Mothers Everywhere—or DIIME—don’t need to worry about extracting every last penny from medical clinics in Ghana that buy their invention, a syringe-like device called Hemafuse that helps save people who have internal bleeding.

In many remote villages in Ghana, the only supply of blood in cases of serious internal bleeding comes from the victim—often, women who’ve suffered ruptured ectopic pregnancies. The traditional method involved filtering the patient’s own blood through gauze, when it was available, then re-infusing the blood into the patient. The process can lead to infection and other serious, often fatal, complications.

Hemafuse enables health practitioners to withdraw the blood, filter it, and immediately send it into a blood bag for reinfusion. The device uses no power and can be sterilized for re-use. Its only disposable component is an inexpensive filter system.

“We were excited to work for a client that had a cool design … that would save lives,” says Gabriel Katz, ’13, an ITC student who worked on the deal under the supervision of Michigan Law adjunct clinical assistant professor David Guenther, ’99. “It was great to see their product become a corporation and come to life.”
Another ITC client, Pilus, has created a bacterial robot—a “Bactobot™”—that eats waste material in water and, as a side effect, creates energy. ITC students helped Pilus develop the ability to manufacture its product in China.

“As someone who wants to work in international law and do international transactions, I think embracing the diversity of the new global environment is important,” says ITC student attorney Daniel Free, ’13, who worked under the supervision of adjunct clinical assistant professor David Shaub, ’60.

The ITC’s results also pleased Pilus CEO Jason Barkeloo.

“As a result of David’s work, and particularly with the University of Michigan (law) students, we are able to get on an airplane with the knowledge of the Bactobots in our heads, go into these other markets, and collaborate with the laboratories and universities there so they can domestically build the Bactobots ... and then distribute them,” Barkeloo says. “We were able to determine that there was indeed a way we could move our technology across those borders almost in a reverse-technology transfer sort of way.”

Lives

By Lori Atherton

Moments after arriving home at her London apartment following a visit to the United States in the spring, Sarah St. Vincent, ’11, learned that she had been selected for a coveted traineeship on the International Court of Justice (ICJ), based in The Hague.

“I walked in the door, put down my suitcases, opened my laptop, and there it was—the message I had been waiting for,” St. Vincent says. “You can imagine how excited I was, despite the jet lag.”

She began her traineeship—which is similar to a clerkship—in September. She is assigned to Judges Xue Hanqin of China and Giorgio Gaja of Italy, and will assist them with conducting research, preparing case files, and drafting various types of documents.

“The thought that I’ll be able to watch this incredibly important form of international dispute resolution in action is extremely exciting,” St. Vincent says. “I’m looking forward to working on cases that are likely to involve diverse areas of international law, and to learning from judges who are some of the most highly regarded experts in the field.”

Michigan Law is among a select group of top law schools around the world that are eligible to nominate students to the Court, says Steven Ratner, the Bruno Simma Collegiate Professor of Law and a member of the committee that nominated St. Vincent.
Wrought in the terror and despair of a nation, Security Prison 21 stands solemn and silent today in Phnom Penh, Cambodia. A torture, interrogation, and execution center under the Khmer Rouge regime, S-21 is, to the world, a haunting reminder of the gross injustice man can inflict on his fellows. For Benjamin Klein, ’10, it is a sensory memory of the moment when career ambition became life purpose.

A 2010 recipient of the Clara Belfield & Henry Bates Overseas Fellowship, which began more than 30 years ago, Klein received crucial financial support for his travel to Cambodia, where he interned in the Office of the International Co-Prosecutor of the United Nations Assistance to the Khmer Rouge Trials. He sought experience on an international court, but found a passion for human rights no résumé can fully illustrate.

“My experience reaffirmed my interest in doing prosecution work and doing it on an international level where crimes tend to be extraordinarily grave,” Klein says. “You are bringing justice to a lot of people. You are helping establish precedent in the international courts that will hopefully help deter such acts by showing there is accountability.”

He remembers his arrival in the Cambodian capital vividly.

“My first day in the city, I tried to get something to eat on the street and was bombarded by tuk-tuk drivers,” Klein says, recalling the swarm of rickshaws. Unable to communicate with the vendors, he was rescued by one of the drivers, who then gave Klein a tour of the city.

S-21 and the infamous Killing Fields of Choeung Ek were among the first stops. With these sites barred to tuk-tuk drivers, Klein insisted his guide enter with him not as a driver, but as a friend.

“Within a few minutes of entering the complex he started to open up,” Klein remembers. “He started to tell me stories of the Khmer Rouge years. They were horrifying and made my jaw drop. It made me realize that everyone in the country over age 40 probably had similar stories of friends taken away and never seen again. It made me realize I was in a very different place.”
Now an associate at Morgan Lewis in Washington, D.C., Klein credits his ability to pursue pro bono work in international criminal law to the Bates Fellowship.

“The Bates allowed me to go to Cambodia. Without it, I would not have been able to afford it and would not have had the experience needed to jump onto other cases. It was really the Bates that propelled me to where I am,” says Klein, who recently served as assistant independent counsel in two cases before the Special Court of Sierra Leone.

With the support of the fellowship, Michigan Law students and alumni have trekked the globe by the hundreds, serving the United Nations High Commissioner for Refugees in Malawi, conducting field research in Cuba, interning with Human Rights Watch in Brazil, and holding clerkships with international courts from Israel to South Africa.

Established through an endowment from Helen Bates Van Tyne, the fellowship offers financial assistance to recent Michigan Law graduates or students with two or more years of legal study to travel abroad for academic or work experience that will contribute to their professional development.

“The hardest step in being an internationalist is sometimes that first step into the field. By making the Bates Fellowship available to support my trip to Iraq in 1991, the Law School helped me take that first step—leap, really—into international activism,” says Marcella David, ’89, associate dean and professor of law and international studies at the University of Iowa College of Law. Her Bates Fellowship allowed her to work for the Commission on Civilian Casualties in Iraq, which documented the impact of the 1991 Iraq war and accompanying sanctions on the civilian population.

It’s that kind of experience that the Bates aims to promote—the launching of careers in international law, as well as in other fields where exposure to foreign and international legal regimes and institutions can be transformative, says Virginia Gordan, the recently retired assistant dean for international affairs, who oversaw the creation and administration of the Fellowship. “I think of it as a mini-Fulbright competition, just for Michigan students,” says Gordan. “For many of the recipients, the Bates helped launch their career.”

That was the case for Amy Radon, ’05, whose fellowship allowed her to travel to Guatemala to work on property and water law with Rights Action, a human rights organization, and to remain in the country when her original focus shifted.

“I went to Guatemala to assist indigenous communities that had been displaced from their land, but Rights Action had a more immediate need to help build a domestic violence program in a rural mining community,” says Radon, who now is a staff attorney with Public Justice. “I worked with an interesting coalition of the mining union, local police, and nuns to bring awareness to the issue, create a shelter, and establish police protocols for responding to domestic violence calls.”

Radon says her work in Guatemala would have been financially impossible without the Bates Fellowship.

“I wouldn’t have the job I have now without my Guatemala experience,” she adds. “It made me stand out and showed my dedication to public-interest work. The Bates Fellowship made it possible.”
Deborah Burand, director of the International Transactions Clinic, spent part of a recent afternoon in her South Hall office enthusing about the woman who had helped draw her to Michigan Law. The first of its kind, and still unique within legal academia, the Clinic was the brainchild of a group of Law School faculty and administrators, including Virginia B. Gordan, assistant dean for international affairs, who retired over the summer.

Gordan made a point of calling Burand in an effort to recruit her, and that extended outreach was one of the major reasons Burand was persuaded to come to Michigan. “Virginia showed me the kind of collegial atmosphere I would find here,” Burand says. “I was being asked to be an academic entrepreneur, but I had a great safety net. And that safety net was Virginia.”

Gordan joined the Law School in 1981 as coordinator of academic affairs, and two years later became assistant dean of student affairs—a position she held until 1996. At that time, Dean Jeffrey Lehman, ’81, “understood the implications of increasing globalization and appreciated our historical teaching and scholarship strengths in cross-border issues,” says Gordan. “So he felt it was important to have a full-time administrator focused entirely on international endeavors.”

When Lehman asked Gordan if she would become the first assistant dean for international affairs, she was enthusiastic. Though sad to let go of some of the responsibilities for student affairs, she thought “it was the perfect opportunity to have two wonderful careers at one fabulous institution.”
As assistant dean for international affairs, Gordan created and oversaw many internationally oriented academic and professional opportunities for students, both here and abroad. She contributed significantly to the Law School’s efforts to attract and support a strong faculty with global expertise. She built relationships with key legal institutions and actors in the United States and around the world. And she organized countless speaker series and symposia, provided academic and professional advising to decades of JD and graduate students, and was the mainstay of the graduate program.

As then-Dean Caminker noted at her farewell reception, “Virginia has been an incredible force with respect to the development of all sorts of our programming in the international sphere” and “essentially created the model that many other law schools have copied for having an assistant dean for international affairs.”

Gordan’s long and productive tenure came to an end with her retirement this summer, but Michigan’s deeply ingrained standing as one of the foremost academic leaders in international legal initiatives will remain.

Steven R. Ratner, the Bruno Simma Collegiate Professor of Law, emphasizes that Gordan brought so much to the School’s international efforts because she cares so much about her students. “She thinks about them constantly. What will help them intellectually, what will help them start an international law career—and even what will help them socially.”

Gordan is mindful of faculty members in much the same way, says Ratner, “and her relationships with alumni—especially foreign alumni—are unbelievable,” he adds, recalling a recent alumni reunion in Paris, where “Virginia was the person everyone wanted to see.”

Susan Esserman, ’77, current chair of Steptoe & Johnson LLP’s International Department in Washington, D.C., and former deputy U.S. trade representative, says Gordan has reached out to her regularly and was responsible for Esserman’s membership on Michigan Law’s International Advisory Board. Esserman also was impressed by what she saw at the Paris reunion. “I had developed a great respect for Virginia, and a real friendship with her, and that event made it obvious to me how many others had built that kind of relationship with her as well,” says Esserman. “She has a genuine interest in others’ practices and careers, which has enabled her to further Michigan Law’s global network. I can’t imagine a more effective ambassador.”

Students agree. “She’s always professional,” says Zachee Pouga Tinhaga, ’13, from Cameroon, “but she also has a way of rising to a personal level, and joking and advising as a parent or a sister might.” Dean Gordan “did a lot of things for me, but most important was making me feel like I was not a stranger at Michigan. She made me feel like I belonged.”

Gordan points out that it was only possible to grow interesting and compelling international programs because of the Law School’s already-strong foundation, including one of the world’s finest law libraries, faculty members who have been seminal thinkers on international and comparative law issues since the beginning of the 20th century, a highly distinguished group of alumni, and deans throughout her tenure dedicated to global initiatives.

Succeeding Dean Gordan is Roopal Shah, ’95. Gordan says Shah—whom she knew as a student—“is a superb choice by the search committee to lead the Law School’s international efforts into the future.”

Gordan intends to continue to make her home in Ann Arbor, and she hopes to consult in her areas of expertise—education in general, and international legal educational issues in particular—as well as rule-of-law and gender issues.

“I’ll miss that big world of students and alumni and other professional connections I’ve made,” Gordan says. “But I hope to remain in contact with as many as I can.”
Countries of origin of LLMs and SJDs*

*During the past three years.

Percentage by Continent of Alumni Who Work Abroad

44% Europe
42% Asia
7% North America
5% South America
2% Africa
Tamim Weerasingha-Cote, ’11, vividly remembers sitting at the United Nations and watching the Universal Periodic Review proceedings—a massive review of the human rights records of all UN member states—during her Geneva externship. “I had read about these things in class, and now I was actually getting to see it happening,” she recalls. “It was amazing to me that I was able to watch history being made.”

That’s the goal of the Geneva Externship Program, which began at Michigan Law in 2008 as a way of matching students with “top-notch international organizations and NGOs on important and substantive work,” says Steven Ratner, faculty director of the program and the Bruno Simma Collegiate Professor of Law. “Because of its huge range of international agencies due to the UN’s large presence there, Geneva was the perfect place in which to set up a program.”

Eighty Michigan Law students have worked on human rights, trade, migration, environment, development, health, intellectual property, and other issues with attorney supervisors, supplemented by a seminar and visits to senior international lawyers in the city, Ratner says. The Geneva International Fellows, as they are known, have worked at numerous UN agencies (such as the UN High Commissioner for Refugees), the World Health Organization, the U.S. Diplomatic Mission to the UN, The Global Fund, and many other governmental organizations and NGOs.

Ratner notes that, because of the cost of living and the exchange rate, students last year began receiving small stipends. Another change is that Anna Nichol, previously the director of Georgetown’s career services office, recently began as the local coordinator in Geneva, succeeding Claire Mahon, who had been with the program since its start. Beyond that, the program remains much the same as it was in the beginning, and it maintains a unique place in legal academia. Ratner points out that many students choose Michigan Law because it offers the externship.

“We are the only school offering a semester-long externship program there for full academic credit, and some students have told us they chose Michigan over other schools because of the Geneva program,” Ratner says. “The supervisors have, not surprisingly, been wowed by our students and are eager to have them back year after year.”

Elisabeth Tuerk of the United Nations Conference on Trade and Development: Division on Investment and Enterprise (UNCTAD) is one of those supervisors. “UNCTAD’s IIA Section has benefitted immensely from having student interns from the University of Michigan,” she says. “They have proven to be extremely well-educated in international law and are diligent, creative, excellent drafters and hardworking. We very much hope to continue this relationship in the future.”

Weerasingha-Cote, now an associate at Sidley Austin, externed at the Office of the UN High Commissioner for Human Rights—Women’s Rights and Gender Section, where she worked on policy issues. Her husband, Ben Cote, ’11, externed at the same time—for the International Centre for Trade and Sustainable Development (ICTSD), an NGO. For Cote, the experience was invaluable in his career path. “I was able to work in an area where I wanted to work—international trade—and it prepared me well for the work I do now,” says Cote, an associate in Pillsbury’s international trade practice.

Jeremy Fancher, ’13, also externed at the ICTSD. His Geneva experience brought to life things he had learned about in class and helped him decide whether, at some point, he would want to pursue a career at an international NGO. “What better way to figure out if it’s right for you,” he says, “than to go to Geneva for four months and actually do the work? It was a tremendous experience.”

Students in the Geneva Externship Program have the opportunity to tour and visit areas of the UN and the city as a group, in addition to their individual work with intergovernmental and nongovernmental organizations.