Michigan Guidelines 10th Anniversary

University of Michigan Law School

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Program in Refugee and Asylum Law

Michigan Guidelines
10th Anniversary

Friday, October 17 & Saturday October 18, 2008
University of Michigan Law School
625 South State Street
Ann Arbor, Michigan 48109
The Michigan Guidelines

The Program in Refugee and Asylum Law convenes a biennial Colloquium on Challenges in International Refugee Law, which brings leading scholars to Ann Arbor to develop the intellectual framework for resolution of cutting-edge problems facing international refugee law.

This book celebrates a remarkable achievement in refugee law scholarship and ensures the wider dissemination of that scholarship for the benefit of refugees. Over ten years, Professor James C. Hathaway, the founding Director of the Program in Refugee and Asylum Law at the University of Michigan Law School, brought together four colloquia of international experts in refugee law who developed four sets of guidelines on difficult and important questions in refugee law.

These guidelines have influenced decision-makers in many countries, assisting in the consistent cross-jurisdictional interpretation of the key universal instruments on refugee law – the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees. Consistency is critical given that these international treaties must be implemented and interpreted by national authorities, particularly the officials, tribunals and courts responsible for recognizing refugee status and its attendant rights.

The Michigan Program in Refugee and Asylum Law will continue to convene Michigan Colloquia on Challenges in International Refugee Law, resulting in further guidelines for the assistance of decision-makers in the future. This present publication, which reproduces all four existing Michigan Guidelines in four languages, English, French, Russian and Arabic, ensures that they will reach a wider audience, promoting the fair and equitable treatment of refugees world-wide.

Penelope Mathew, Visiting Professor and Director
Program in Refugee and Asylum Law
University of Michigan Law School
Ann Arbor, October 2008
Friday, October 17

4:00 pm Book Launch Ceremony

"The Michigan Guidelines on the International Protection of Refugees"

James C. Hathaway
Founding Director, Dean, University of Melbourne Law School

Honigman Auditorium, 100 Hutchins Hall

Reception Immediately Following (outside 100 Hutchins Hall)

Welcome
Penelope Mathew
Visiting Professor and Director, Program in Refugee and Asylum Law

Louise Moor – Migrants Rights Officer, Amnesty International

Paul McDonough – Research Officer, European Council for Refugees and Exiles

Larissa Wakim – Investigations Division of the Office of the Prosecutor, International Criminal Court

James C. Hathaway – Dean, University of Melbourne Law School

Closing Remarks
Saturday, October 18
(all events take place in 116 Hutchins Hall)

10:00 am Coffee & Conversation with the Directors

James C. Hathaway
Founding Director, Program in Refugee and Asylum Law
Dean, University of Melbourne Law School

Penelope Mathew
Visiting Professor and Director, Program in Refugee and Asylum Law

11:00 am "Refugee rights and the challenge of mixed migration flows to Europe"
Paul McDonough
Research Officer, European Council on Refugees and Exiles

12:00 pm Lunch break

2:00 pm "On shaky ground: limited options for individuals displaced by xenophobic violence in South Africa"
Louise Moor
Refugee and Migrants’ Rights Officer, Amnesty International

4:00 pm "‘Accidents of Persecution’ – the House of Lords, the Michigan Guidelines and global justice.”
Penelope Mathew
Visiting Professor and Director, Program in Refugee and Asylum Law
James C Hathaway

Professor James Hathaway was appointed Dean and William Hearn Chair of Law at the Law School in 2008. He is also Senior Visiting Research Associate at Oxford University’s Refugee Studies Program, and President of the Cuenca Colloquium on International Refugee Law. Prior to joining the Melbourne Law School, Hathaway was the James E and Sarah A Degan Professor of Law and Director of the Program in Refugee and Asylum Law at the University of Michigan Law School (USA). Prior to that, he served as Associate Dean of the Osgoode Hall Law School (Toronto). Professor Hathaway is a leading authority on international refugee law, whose work is regularly cited by the most senior courts of the common law world. He regularly provides training on refugee law to academic, nongovernmental, and official audiences around the world.

Professor Hathaway’s publications include more than sixty journal articles, a leading treatise on the refugee definition (The Law of Refugee Status, 1991), an interdisciplinary study of models for refugee law reform (Reconceiving International Refugee Law, 1997) and, most recently, The Rights of Refugees under International Law (2005) - the first comprehensive analysis of the human rights of refugees set by the UN Refugee Convention, all linked to key international human rights norms and applied to the world's most difficult protection challenges.

He is of counsel to both the US Committee for Refugees and Immigrants and Asylum Access, a non-profit organization committed to delivering innovative legal aid to refugees in the global South. Professor Hathaway also sits on the editorial boards of the Journal of Refugee Studies and of the Immigration and Nationality Law Reports and directs the Refugee Caselaw Site (www.refugeecaselaw.org), a website that collects, indexes, and publishes leading judgments on refugee law.

Penelope Mathew

Penelope Mathew's research interests are international law, human rights law and refugee law. She has published widely in the areas of refugee law and international human rights law, in journals such as the American Journal of International Law, the International Journal of Refugee Law and the Georgetown Immigration Law Journal. She is a past editor-in-chief of the Australian Yearbook of International Law (2005 – 07) and one of the authors of International Law: Cases and Materials (Oxford, 2005).

Professor Mathew's particular expertise is in refugee law and she has worked with and for refugees in many capacities. In 2001, she advised the UN High Commissioner for Refugees’ regional office for Australia, New Zealand, Papua
New Guinea and the South Pacific concerning the problems with Australian legislation underpinning the so-called "Pacific Solution" (i.e., the interception of and "processing" of unauthorized boat arrivals' claims to refugee status in other countries in the Pacific). She was also a participant in the third expert panel on refugee law organized by UNHCR during the "global consultations" on the 1951 Convention relating to the Status of Refugees.

She has written numerous submissions to parliamentary inquiries, particularly those relating to changes to Australia's immigration laws and their impact on refugees and asylum-seekers. Her evidence to the Australian Senate's Legal and Constitutional Committee concerning the Migration Amendment (Designated Unauthorized Arrivals) Bill 2006, a bill which sought to extend the Pacific Solution, was cited extensively by the Committee when it recommended that the bill should not become law.

Professor Mathew has also provided academic opinions to lawyers working on refugee cases before Australian courts, including the test cases for East Timorese asylum-seekers. She is a non-judicial member of the International Association of Refugee Law Judges and a member of its human rights working group. She was one of the faculty members, along with Professor James Hathaway and Rodger Haines QC, for the advanced refugee law workshop organized by the International Association of Refugee Law Judges in Auckland, New Zealand, in 2002. While maintaining a base in academia at the Australian National University College of Law, Professor Mathew has practiced as a human rights and/or refugee lawyer. Since the early 1990s, she has worked as a researcher, caseworker or adviser on a paid and unpaid basis with non-government organizations. One of her first and most enjoyable jobs was a three-month position as a volunteer lawyer with the Jesuit Refugee Service in the refugee camps in Hong Kong. There she learned some things about refugee law and the capacity of human beings to survive and flourish in the most unlikely places. Most recently, she has been the Human Rights Legal and Policy Adviser to the Human Rights Commission in the Australian Capital Territory (ACT). (Canberra, the seat of the Australian government, is in the ACT – a sort of Washington D.C. with voting rights in the national parliament.) During her time at the Human Rights Commission, Professor Mathew conducted the Human Rights Audit of the ACT's Correctional Facilities -- a yearlong empirical project which monitored and assessed practices in the ACT's remand centers against international human rights standards for the treatment of prisoners.

Paul McDonough

Paul McDonough (Michigan Law JD 2007) is the research officer responsible for legal matters at the European Council for Refugees and Exiles (ECRE). The ECRE Secretariat in Brussels advocates within the institutions of the European Union for refugee rights, and coordinates a network of 68 member
agencies located across Europe. Paul's work at ECRE focuses on the development of the Common European Asylum System, specifically on the EU measures that regulate and seek to harmonize asylum law.

Louise Moor

Ms Louise Moor is a Barrister and Solicitor originally from New Zealand. She holds a Bachelor of Laws (LLB) and a Bachelor of Arts (BA) from the University of Auckland, NZ and a Master of Laws (LLM) from the University of Michigan, where she was a Grotius Fellow in 2003-2004. She has worked in a variety of positions across the world in refugee protection including as a Legal Associate at the Refugee Status Appeals Authority of New Zealand, the Irish Refugee Council in Dublin, as a Visiting Research Scholar at the University of Michigan, and a fellow at both the AIRE Centre in London and Human Rights Watch in Geneva. She is currently the Refugee and Migrants' Rights Officer at the International Secretariat of Amnesty International in London where she covers global refugee protection, migrants' rights and IDP issues. As part of this role she is responsible for legal and policy advice to the organization, undertakes international and regional advocacy, conducts research and publishes reports detailing the human rights concerns related to displaced populations.

Larissa Wakim

Larissa Wakim completed her LLB / BA (History) at the University of Auckland, New Zealand and was admitted to the NZ Bar in 2000. She then spent the following three years working for local NGOs in Cambodia (Cambodian Defenders Project; Cambodian Women's Crisis Centre), New Zealand (Child Poverty Action Group) and Egypt (Africa and Middle East Refugee Assistance) on a variety of human rights issues including criminal defense for the indigent; rape, sexual trafficking and domestic violence issues; child poverty; and refugee representation.

She completed her LLM at the University of Michigan in 2004 and worked at the UNHCR in Washington DC, the US Department of State in Chad, the AIRE Centre in London and as a research fellow for Professor Hathaway at the University of Michigan. Since July 2005, she has worked in the Investigations Division of the Office of the Prosecutor at the International Criminal Court in The Hague, Netherlands.
ACKNOWLEDGMENTS

I wish gratefully to acknowledge the generous gift of Jane and Ron Olson, which both facilitated the establishment of the Program in Refugee and Asylum Law and supported the colloquia which produced the Michigan Guidelines on the International Protection of Refugees. Without their vote of confidence, these contributions to the reform of international refugee law would not have been possible.

I signal also the unfailing enthusiasm of Dean Evan Caminker and Assistant Dean Virginia Gordan of the Michigan Law School for the continued growth of evolution of the Program. I thank Rodger Haines QC for his seminal role in advising us on the development of the colloquium process. More specifically, I am grateful to Justice Anthony M. North for contributing the Foreword to this volume; to Atef Said and Mohamed Elmessiry for the Arabic translation and revision respectively; to Jacques Mangala for the French translation; to Vadim Besprozvany for his Russian translation; and to Michigan Marketing & Design and James Gannon for their contributions to the design of the volume.

James C. Hathaway
James E. and Sarah A. Degan Professor of Law
Founding Director, Program in Refugee and Asylum Law