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THE MICHIGAN GUIDELINES ON THE RIGHT TO WORK

INTRODUCTION

The right to work is fundamental to human dignity. It is central to survival and development of the human personality. According to the International Labour Organization (ILO), decent work “sums up the aspirations of people in their working lives—for opportunity and income; rights, voice and recognition”¹ Work is interrelated, interdependent with, and indivisible from the rights to life, equality, the highest attainable standard of physical and mental health, an adequate standard of living, the right to social security and/or social assistance, freedom of movement, freedom of association, and the rights to privacy and family life, among others.

Numerous international and regional human rights instruments, as well as many national constitutions, protect the right to work. The right to work is contained in Article 23 of the Universal Declaration of Human Rights. Articles 6, 7, and 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognize the right to work, along with rights at work. In addition, Article 8(3)(a) of the International Covenant on Civil and Political Rights (ICCPR) protects against slavery and forced labor, while Article 32 of the Convention on the Rights of the Child protects against child labor. The right to work is also enshrined in Article 5(e)(i) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); Article 11(1)(a) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); Article 27 of the Convention on the Rights of Persons with Disabilities (Disability Convention); and various provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, particularly Articles 52 to 55. The United Nations Convention Relating to the Status of Refugees (Refugee Convention) recognizes the right to work in Articles 17, 18, and 19.²

Several regional instruments also recognize the right to work. They include the European Social Charter of 1961, the Revised European Social Charter of 1996 (Part II, Article 1) and Article 15 of the Charter of Fundamental Rights of the European Union; the African Charter on

1. See Int'l Labour Org., Decent Work for All, http://www.ilo.org/global/About_the_ILO/Mainpillars/WhatisDecentWork/lang--en/index.htm (last visited Mar. 5, 2010).

2. United Nations Convention Relating to the Status of Refugees arts. 17–19, July 28, 1951, 189 U.N.T.S. 137 [hereinafter Refugee Convention].

Human and Peoples' Rights (Article 15); the Charter of the Organization of American States (Article 45), the American Declaration on the Rights and Duties of Man (Article XIV), and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Article 6); and the Arab Charter on Human Rights (Article 34).

In addition, rights at work are protected by international labor standards, particularly the eight "fundamental" ILO conventions and the four "priority" ILO conventions. The eight fundamental ILO conventions are: Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105); Minimum Age Convention, 1973 (No. 138); Worst Forms of Child Labour Convention, 1999 (No. 182); Equal Remuneration Convention, 1951 (No. 100); and Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The four priority conventions are: Labour Inspection Convention, 1947 (No. 81); Labour Inspection (Agriculture) Convention, 1969 (No. 129); Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144); and Employment Policy Convention, 1964 (No. 122). Furthermore, through the ILO Declaration on Fundamental Principles and Rights at Work (1998), all ILO members have committed to four principal values, regardless of whether they are party to relevant ILO conventions. These four principal values are freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labor; the effective abolition of child labor; and the elimination of discrimination in respect of employment and occupation.

The right to work enshrined in international instruments is not the guarantee of a job, although some treaties, particularly the ICESCR and ILO Convention No. 122 (Employment Policy Convention, 1964), oblige states to move towards full and productive employment. At the core of the right to work is freedom to gain a living by work freely chosen or accepted. This right entails access to the labor market, as well as the ability to participate in self-employment and the liberal professions. In most human rights instruments, this freedom is expressed as a universal entitlement, and is protected on a non-discriminatory basis.

Freedom to work is a right that is fundamental to the protection of refugees and others seeking protection which must not be confused with the reasons for their flight. Unable to return to their country of origin or nationality, and being without the protection of their own country, refugees must have rights to work in the country of refuge. As stated by one

of the framers of the Refugee Convention, “without the right to work, all other rights were meaningless.”³ It is also in the interest of countries of refuge that refugees are allowed to work. The ability to engage in decent work empowers refugees, enabling self-reliance and contribution to the economy and society. Yet, the right to work is often denied to refugees and others seeking protection, compounding the persecution, fear, and displacement they have already suffered. State policy or conduct that denies the right to work may result in destitution and the violation of the prohibition on inhuman or degrading treatment. The obligation of *non-refoulement* may also be violated as those unable to work may be compelled to return to a place of persecution.

In order to uphold the right to work for refugees and others seeking protection, we have engaged in sustained collaborative study and reflection on the international legal norms and state practice relevant to refugees’ right to work. This research was debated and refined at the Fifth Colloquium on Challenges in International Refugee Law, convened between November 13 and 15, 2009 by the University of Michigan Law School’s Program in Refugee and Asylum Law. These Guidelines are the product of that endeavor, and reflect the consensus of Colloquium participants.

FREEDOM TO WORK—A FUNDAMENTAL RIGHT FOR REFUGEES

1. The ability to gain a living by work freely chosen or accepted is a universal entitlement enshrined in many international and regional human rights instruments. Refugees who are unable to work may be compelled by sheer economic desperation to return to a place of persecution, resulting in a violation of the obligation of *non-refoulement*. Failure to permit access to the labor market may render refugees destitute. It may also result in the unauthorized work of refugees in dangerous and degrading conditions, and can expose them to physical, sexual, and gender-based violence. This is particularly likely given the many layers of vulnerability within refugee populations such as gender, age, ethnicity, disability, and trauma. Inability to work may also result in the unauthorized onward secondary movement of refugees in search of work and an adequate standard of living to support themselves and their families, subjecting them to risks such as people smuggling and human trafficking. States are legally obliged to prevent and protect persons from such exploitation under, *inter alia*, the prohibition on

3. Statement of Mr. Henkin of the United States, U.N. Doc. E/AC.32/SR.37, Aug, 16, 1950, at 12.

inhuman and degrading treatment; the prohibition on slavery and forced labor; treaties for the suppression of human trafficking and people smuggling; and numerous treaties concerning non-discrimination. In particular, the rights of asylum-seeking and refugee women must be respected, protected, and fulfilled under CEDAW and other guarantees of equality.

2. Permitting refugees' access to the labor market enables them to contribute to the economy and to become self-reliant, benefiting themselves and the local population. In many cases, refugees have skills that are valuable in countries of refuge. By contrast, the enforced unemployment of refugees prevents the acquisition of new skills and leads to loss of existing skills, dependency, lack of confidence, and diminished financial resources. Refugees are thereby cut off from the prospect of local integration. Their prospects of successful integration in countries of resettlement are also diminished. Paradoxically, voluntary repatriation may also be hindered when refugees have been left idle for years and do not have the resources or skills to return home. As stated by the Executive Committee of the Programme of the United Nations High Commissioner for Refugees "the enhancement of basic economic and social rights, including gainful employment, is essential to the achievement of self-sufficiency and family security for refugees and is vital to the process of re-establishing the dignity of the human person and of realizing durable solutions to refugee problems."⁴

A DYNAMIC AND LIBERAL INTERPRETATION OF THE RIGHT TO WORK IS REQUIRED

3. The Refugee Convention refers to the Universal Declaration of Human Rights in its preamble. Therefore the Refugee Convention may be said to have anticipated the development of the core United Nations human rights treaties and, since that development, the Refugee Convention is no longer the sole framework of reference for the interpretation of its provisions. The Refugee Convention must now be viewed as part of the corpus of international human rights law, and read together with other human rights treaties. Every state is party to one or more of these instruments, ensuring a significant congruence of states parties. They are complementary and mutually

4. General Conclusion on International Protection No. 50 (XXXIX) (Oct. 10, 1998), available at <http://www.unhcr.org/3ae68c9510.html> (last visited Mar. 5, 2010).

reinforcing instruments that share the object and purpose of protecting human rights and fundamental freedoms.

4. Human rights treaties require a dynamic interpretation in light of changing circumstances, and a liberal interpretation that best protects the individual rights-bearer. Such an interpretation is reinforced by “savings clauses,” such as Article 5 of the Refugee Convention, which provides: “Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.” In cases where states are party to more than one relevant treaty and the treaties contain different obligations, refugees benefit from the most generous provisions. Similarly, any limitations on human rights must be construed narrowly. The burden rests on the state to justify any limitations in accordance with the usual requirements of necessity, legality, and proportionality. Where states assert a legitimate objective in restricting the right to work, the means taken to achieve that objective must be the least restrictive.

THE RIGHT TO WORK UNDER THE REFUGEE CONVENTION

5. The Refugee Convention divides the right to work among three articles: Article 17 (wage-earning employment); Article 18 (self-employment); and Article 19 (participation in the liberal professions). In each case, the right to work depends on a certain level of attachment to the country of refuge. Under Article 17, states parties are required to “accord to refugees *lawfully staying* in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.”⁵ Article 19 requires the same level of attachment as Article 17, while Article 18 simply requires lawful presence. Lawful stay is also required under Article 24 of the Refugee Convention, which concerns rights at work (employment conditions) and social security.
6. Refugees have an internationally recognized right to seek asylum and to be protected from *refoulement* under the Refugee Convention, among other instruments. National determination of refugee status is declaratory, not constitutive. While domestic law is the first point of reference, the meaning of the term “lawful” in the

5. Refugee Convention, *supra* note 2, art. 17 (emphasis added).

Refugee Convention must refer ultimately to international law and the factual realities for the particular refugee.

7. The meaning of the term “lawful” must be ascertained in accordance with a good faith interpretation of the Refugee Convention, and in light of human rights treaties that protect rights on the basis of physical presence and the premise of equality. If a refugee’s presence in the territory of a state party to the Convention is not unlawful, in that the state is aware, or should be aware, of the refugee’s presence and the state is unable or unwilling to remove the refugee, then the refugee’s presence may be regarded as lawful for the purposes of the Refugee Convention.
8. The term “stay” distinguishes refugees who are present in the state on an ongoing basis from those in transit or who are merely visiting. Refugees “lawfully staying” in states party to the Convention include those recognized as refugees through individual refugee status determinations (RSD) or as *prima facie* refugees (refugees whose status has been determined on a group basis) whether by the state or by UNHCR; asylum-seekers in a state that fails to determine or to comply with an RSD system or where the procedure is unduly prolonged; and refugees waiting for resettlement in another state.
9. The Refugee Convention provides for a gradual integration of refugees into host communities, with a corresponding increase in protection of rights, imposing obligations to at least consider granting the most generous protection possible. Article 17(3) requires states parties to give “sympathetic consideration” to granting the right to engage in wage-earning employment on the same basis as nationals. Articles 18 and 19 of the Refugee Convention provide for a standard of treatment “as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.”
10. Under Article 17(2) of the Refugee Convention, a refugee with three years of residence in a country of refuge or who has a spouse or child possessing the nationality of the country of refuge cannot be subjected to restrictive measures on aliens or the employment of aliens to protect the national labor market. The period of three years of residence commences once a person enters the country, rather than from the time of recognition as a refugee.
11. Article 17(1) provides for a minimum standard of treatment with respect to wage-earning employment, namely the treatment

accorded to most favored foreigners “in the same circumstances.” According to Article 6 of the Refugee Convention, the phrase “in the same circumstances” means that refugees must fulfill any conditions for the enjoyment of the right protected in Article 17 which a most favored foreigner would also have to meet in order to enjoy that right. The conditions are attached to enjoyment of the same rights as the most favored foreigner, not to the requirements for becoming a most favored foreigner. Refugees in countries that have treaties establishing access to the labor market for most favored foreigners in economic communities or common markets (such as the European Union or the Economic Community of West African States) must be accorded the same access to the labor market as non-nationals covered by these treaties. A liberal interpretation of the language “most favourable treatment accorded to nationals of a foreign country” requires that if aliens who are permanent residents are authorized to work, refugees lawfully staying should be afforded the same authorization to work as permanent residents.

12. Article 6 of the Refugee Convention exempts refugees from conditions that are too onerous for refugees to meet. If a fee is required in order to obtain a work permit for most favored foreigners, states should waive the fee for refugees, in recognition of the generally limited nature of refugees’ resources and their often precarious financial situations while they are seeking employment authorization. A case by case assessment may be required.

THE RIGHT TO WORK UNDER OTHER HUMAN RIGHTS INSTRUMENTS

13. Article 6 of the ICESCR protects every person’s opportunity to gain a living by work which he or she freely chooses or accepts. All forms of work, including wage-earning employment, self-employment, and participation in the liberal professions are protected. This right is reflected in many other universal and regional human rights instruments.
14. As described by the Committee on Economic, Social and Cultural Rights (CESCR), Article 6 of the ICESCR protects “decent work”: “work that respects the fundamental rights of the human person as well as the rights of workers in terms of conditions of work safety and remuneration. [Such work] also provides an income allowing workers to support themselves and their families as highlighted in article 7 of the Covenant. These fundamental rights also include

respect for the physical and mental integrity of the worker in the exercise of his/her employment.”⁶

15. Article 6 of the ICESCR protects all individuals within a state’s territory or jurisdiction on a non-discriminatory basis. “The Covenant rights apply to everyone including non-nationals, such as refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation.”⁷ This is true for most other international and regional human rights instruments.
16. As recognized by the Committee on the Elimination of Racial Discrimination in General Recommendation No. XXX and the CESCR in General Comment No. 20, differential treatment based on a prohibited ground (such as nationality) will be discriminatory unless the justification for the distinction is reasonable and objective. Similar analysis is required under the free-standing protection of equality under Article 26 of the ICCPR. Under the ICESCR, this requires “an assessment as to whether the aim and effects of the measures or omissions are legitimate, compatible with the nature of the Covenant rights and solely for the purpose of promoting the general welfare in a democratic society. In addition, there must be a clear and reasonable relationship of proportionality between the aim sought to be realized and the measures or omissions and their effects.”⁸ Covenant rights, including the right to work, cannot be denied or limited solely on the basis of refugee status.
17. In addition to refugees, others protected by *non-refoulement* obligations have the right to work. This includes persons entitled to complementary forms of protection under, *inter alia*, Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and Articles 6 and 7 of the ICCPR.
18. The ICCPR and ICESCR also require protection of the right to work for persons who for administrative or practical reasons cannot be returned or for whom return is unreasonably prolonged. In such cases, limitations may apply—for example, if return becomes prac-

6. Econ. & Soc. Council, Comm. on Econ., Soc. & Cultural Rights, *General Comment No. 18: The Right to Work*, ¶ 7, U.N. Doc. E/C.12/GC/18 (Feb. 2, 2006) [hereinafter *General Comment No. 18*].

7. Econ. & Soc. Council, Comm. on Econ., Soc. & Cultural Rights, *General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights*, ¶ 30, U.N. Doc. E/C.12/GC/20 (July 2, 2009).

8. *Id.* ¶ 13. See discussion of Article 4 of the ICESCR *in* ¶ 18 of this document, *infra*.

tical, restrictions on freedom of movement, such as reporting requirements, may need to be imposed in order to facilitate return. However, limitations must in all cases comply with international legal standards. Article 4 of the ICESCR establishes requirements of legality, compatibility with the nature of the rights and promotion of the general welfare in a democratic society. A policy of enforced destitution is incompatible with human rights.⁹

THE RIGHT TO SOCIAL SECURITY AND SOCIAL ASSISTANCE

19. The right to social security and social assistance is another basic right that is particularly important to refugees and others who are unemployed, unable to work, or underemployed. Article 24 of the Refugee Convention guarantees social security to lawfully staying refugees, while Article 9 of the ICESCR is a universal entitlement to social assistance.¹⁰ States must account for the problems that contributory schemes of social security may impose for refugees and similarly situated people. The right to social assistance in Article 9 of the ICESCR is interdependent with Article 11 of the ICESCR—a universal entitlement to an adequate standard of living—and many other rights, including, most notably, the right to life.

SAFEGUARDING THE RIGHT TO SEEK ASYLUM

20. Good faith compliance with the obligations in the Refugee Convention requires that asylum-seekers are able to access prompt and fair RSD (unless asylum-seekers are assumed to be refugees without the necessity of any individual or group determination), as well as respect for their human rights. This includes the right to an adequate standard of living. State policies or conduct contrary to fundamental rights carry the risk that an asylum-seeker will be compelled to return to a place of persecution, thereby violating the obligation of *non-refoulement*.
21. Article 6 of the ICESCR is a universal entitlement, protected on a non-discriminatory basis. Work is a means to ensure asylum-seekers' survival, self-reliance and dignity. Authorization to work will assist in avoiding exploitative conditions in the informal sector. It will also

9. See ¶ 22, *infra*.

10. Econ. & Soc. Council, Comm. on Econ., Soc. & Cultural Rights, *General Comment No. 19: The Right to Social Security*, U.N. Doc. E/C.12/GC/19 (Feb. 4, 2008).

promote the realization of durable solutions, and alleviate any pressure asylum-seekers might place on national welfare systems.

22. However, it may be difficult for asylum-seekers to obtain work and states must, in any event, provide adequate levels of social assistance in accordance with Articles 9 and 11 of the ICESCR, as well as other interdependent rights such as the right to the highest standard of mental and physical health, the right to life, and the prohibition on inhuman or degrading treatment. State policy or conduct that leads to destitution through denial of access to social security and assistance and/or the employment market in the absence of other means of support may violate the prohibition on inhuman or degrading treatment.

OBLIGATIONS WITH RESPECT TO REFUGEES' RIGHT TO WORK

23. Refugees, like other individuals, should be enabled to fulfill their potential, and it is in the interests of states to ensure this. Refugees face many barriers to their meaningful participation in the labor market and attendant risks of exploitation. States have obligations to respect, protect, and fulfill the right to work so that refugees may exercise their rights to decent work under the Refugee Convention, the ICESCR, and other human rights treaties. There are also obligations with respect to international cooperation and assistance.

24. Obligations to Respect

In order to make the right to work meaningful, states have an obligation to provide a secure legal status and associated documentation to protect refugees from penalization for working without proper authorization and in order to minimize the risk of exploitation by unscrupulous employers. Where refugees are found working in the informal sector, their rights at work, including rights protected by relevant ILO conventions, such as fair wages and equal remuneration, must be respected. Refugees must be provided with information in an accessible language and all necessary guidance and facilities with respect to the procedure for acquiring a secure legal status and associated documentation. Any fees should be waived. States must review laws to ensure that they do not discriminate on prohibited grounds such as nationality, thereby limiting employment opportunities for refugees. They must provide effective remedies for any violations of the right to work. States must also respect, protect, and fulfill other interdependent rights, such as the right to housing.

25. Obligations to Protect

The obligation to protect requires states to take positive measures for the realization of the right to work. States must protect refugees from violations of their right to work and rights at work by private actors, including private employers. States must protect refugees from direct and indirect discrimination on the basis of, *inter alia*, race, nationality, or refugee status, and combat the multiple levels of discrimination affecting refugees—for example, refugee women, older refugees, refugees who are sole parents, refugees with disabilities, refugees living with a mental illness, and refugees suffering from trauma. States must protect the equal rights of women to work pursuant to Article 5 (the obligation to eliminate prejudices and customary practices) and Article 11 (right to work) of CEDAW. They must ensure that the labor market and work environment “is open, inclusive and accessible to persons with disabilities.”¹¹ They must also eliminate practices which have the effect of discriminating on the basis of race or nationality under ICERD. States must ensure protection against exploitation by private employers through, *inter alia*, the provision of a secure legal status and enforcement of basic labor standards. Identification of a person as a refugee in any documentation that confirms the entitlement to work should be avoided. States must take account of the fact that temporary residence permits may discourage employers from hiring refugees, thereby interfering with the ability to exercise the right to work to its fullest. Laws, policies, procedures, and statements must refrain from demonizing refugees and asylum-seekers in order to avoid contributing to discrimination in the private sector.

26. Obligations to Fulfill

States must take further steps to fulfill refugees’ rights to work, including measures such as: development of necessary infrastructure, including, for example, employment offices; language and skills training; loans and grants for small businesses; funding for non-governmental organizations that support refugees’ employment; recognition of the equivalency of foreign academic, professional and vocational diplomas, certificates and degrees; fee waivers and assistance for conversion tests that enable professional recognition; and incentives for employers to employ refugees. States should also develop and implement public education

11. Convention on the Rights of Persons with Disabilities art. 27, G.A. Res. 61/106, at 65, U.N. GAOR, 61st Sess., Supp. No. 49, U.N. Doc. A/61/49 (Dec. 13, 2006).

campaigns concerning the rights of refugees and their economic and other contributions to countries of refuge.

27. Obligations of International Cooperation.

Under Articles 55(c) and 56 of the U.N. Charter, all U.N. members pledge to co-operate in order to achieve “universal respect for, and observance of, human rights and fundamental freedoms for all.” Article 2(1) of the ICESCR also imposes on state parties obligations of international assistance and cooperation.¹² The CESCR has underlined the responsibilities of other actors, namely the ILO and other U.N. specialized agencies, the World Bank, regional development banks, the International Monetary Fund, the World Trade Organization, and other relevant bodies within the United Nations system, to cooperate with states in conformity with Articles 22 and 23 of the ICESCR.¹³ At the United Nations Millennium Summit, the international community committed to addressing the special needs of least developed countries, including through more generous official development assistance for countries committed to poverty reduction.¹⁴ The preamble to the Refugee Convention and Recommendation D of the Final Act of the Conference of Plenipotentiaries which adopted the Refugee Convention also recognize the obligation to cooperate. International assistance and cooperation in the refugee context may take the form, *inter alia*, of resettlement of refugees, financial assistance, and technical assistance. It may also take the form of family reunification, labor migration programs, and development assistance.

MASS INFLUX

28. Situations of mass influx may raise particularly acute problems with respect to protection of refugee rights. As recognized by the UNHCR Executive Committee, a mass influx “may, *inter alia*, have some or all of the following characteristics: (i) considerable numbers of people arriving over an international border; (ii) a rapid rate of arrival; (iii) inadequate absorption or response capacity in host states, particularly during the emergency; (iv) individual asylum procedures, where they exist, which are unable to deal with the

12. International Covenant on Economic, Social and Cultural Rights art. 2(1), *opened for signature* Dec. 19, 1966, 993 U.N.T.S. 3.

13. *General Comment No. 18*, *supra* note 6.

14. See Millennium Development Goal 8, Target 13, <http://www.unmillenniumproject.org/goals/gti.htm> (last visited Mar. 5, 2010).

assessment of such large numbers”¹⁵ The element of inadequate absorption or response capacity serves to distinguish the situation of developing countries from developed countries. Developed countries are generally able to cope with a rapid influx of large numbers of asylum-seekers or refugees.

29. There is no general derogation clause in either the Refugee Convention or the ICESCR. “[I]n time of war or other grave and exceptional circumstances,” Article 9 of the Refugee Convention allows, in individual cases, provisional measures essential to national security “pending a determination . . . that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.” A situation of mass influx does not, in and of itself, trigger the ability to impose provisional measures under Article 9. Even in situations of mass influx, states are bound by *non-refoulement* obligations and must provide temporary refuge, at a minimum.
30. In the initial phases of a mass influx, states may legitimately focus their efforts on emergency humanitarian assistance and RSD, whether on a group or individual basis. As far as the right to work is concerned, refugees will not, in the initial phases, be “lawfully staying” for the purposes of Article 17 of the Refugee Convention. However, under the Refugee Convention, the right to engage in self-employment adheres at the early stage of “lawful presence.” The impact on state resources may be such that states’ ability to fulfill the right to work under the ICESCR may be weakened. Under the ICESCR, however, states parties must always meet the minimum core content of rights under the Covenant and “take steps” towards the realization of all rights, with international assistance, if necessary.
31. States and other actors must assist those states faced with a mass influx in accordance with the obligation of international cooperation. This includes “the provision of financial and in-kind assistance in support of refugee populations and host communities to promote refugee self-reliance, as appropriate, thus enhancing the sustainability of any future durable solution and relieving the burden on countries of first asylum.”¹⁶

15. Conclusion on International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations, No. 100 (LV) (Oct. 8, 2004), available at <http://www.unhcr.org/41751fd82.html> (last visited Mar. 5, 2010).

16. *Id.*

These Guidelines reflect the consensus of all the participants at the Fifth Michigan Colloquium on Challenges in International Refugee Law, held in Ann Arbor, Michigan, USA, on November 13–15, 2009.

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