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MIGRATION  
LAW AND POLICY

WORLD BANK





Edited by  
**Vincent Chetail**



# **International Law and Migration**

VOLUME I

INTERNATIONAL LAW 12

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*Ellen G. Schaffer & Randall J. Snyder*



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3 / 2015

1 - 82 Spring 2015

, London, UK (Chair)  
Delaware, USA  
Stellenbosch, RSA

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LAW**

**SECOND REVISED EDITION**

EDITED BY RALPH F. CARLSON AND ALISON A. CHAN

WILLIAMS & WILKINSON



**Constitution of the  
International Labour Organisation  
and  
selected texts**

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**Constitution de l'Organisation  
internationale du Travail  
et  
textes sélectionnés**

INTERNATIONAL LABOUR OFFICE · GENEVA  
2012

BUREAU INTERNATIONAL DU TRAVAIL · GENÈVE  
2012



## CONVENTION N° 97

Convention concernant les travailleurs migrants  
(révisée en 1949) <sup>1</sup>

La Conférence générale de l'Organisation internationale du Travail, convoquée à Genève par le Conseil d'administration du Bureau international du Travail, et s'y étant réunie le 8 juin 1949, en sa trente-deuxième session,

Après avoir décidé d'adopter diverses propositions relatives à la révision de la convention sur les travailleurs migrants, 1939, adoptée par la Conférence à sa vingt-cinquième session, question qui est comprise dans le onzième point à l'ordre du jour de la session,

Considérant que ces propositions doivent prendre la forme d'une convention internationale,

**adopte**, ce premier jour de juillet mil neuf cent quarante-neuf, la convention ci-après, qui sera dénommée Convention sur les travailleurs migrants (révisée), 1949 :

*Article 1*

Tout Membre de l'Organisation internationale du Travail pour lequel la présente convention est en vigueur s'engage à mettre à la disposition du Bureau international du Travail et de tout autre Membre, à leur demande :

- a) des informations sur la politique et la législation nationales relatives à l'émigration et à l'immigration ;
- b) des informations sur les dispositions particulières concernant le mouvement des travailleurs migrants et leurs conditions de travail et de vie ;
- c) des informations concernant les accords généraux et les arrangements particuliers en ces matières conclus par le Membre en question.

*Article 2*

Tout Membre pour lequel la présente convention est en vigueur s'engage à avoir, ou à s'assurer qu'il existe, un service gratuit approprié chargé d'aider les travailleurs migrants et notamment de leur fournir des informations exactes.

*Article 3*

1. Tout Membre pour lequel la présente convention est en vigueur s'engage, dans la mesure où la législation nationale le permet, à prendre toutes mesures appropriées contre la propagande trompeuse concernant l'émigration et l'immigration.

2. A cette fin, il collaborera, s'il est utile, avec les autres Membres intéressés.

## Convention No. 143

Convention concerning Migrations in Abusive Conditions and  
the Promotion of Equality of Opportunity and  
Treatment of Migrant Workers <sup>1</sup>

The General Conference of the International Labour Organisation, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixtieth Session on 4 June 1975, and

Considering that the Preamble of the Constitution of the International Labour Organisation assigns to it the task of protecting "the interests of workers when employed in countries other than their own", and

Considering that the Declaration of Philadelphia reaffirms, among the principles on which the Organisation is based, that "labour is not a commodity", and that "poverty anywhere constitutes a danger to prosperity everywhere", and recognises the solemn obligation of the ILO to further programmes which will achieve in particular full employment through "the transfer of labour, including for employment ...",

Considering the ILO World Employment Programme and the Employment Policy Convention and Recommendation, 1964, and emphasising the need to avoid the excessive and uncontrolled or unassisted increase of migratory movements because of their negative social and human consequences, and

Considering that in order to overcome underdevelopment and structural and chronic unemployment, the governments of many countries increasingly stress the desirability of encouraging the transfer of capital and technology rather than the transfer of workers in accordance with the needs and requests of these countries in the reciprocal interest of the countries of origin and the countries of employment, and

Considering the right of everyone to leave any country, including his own, and to enter his own country, as set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and

Recalling the provisions contained in the Migration for Employment Convention and Recommendation (Revised), 1949, in the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955, in the Employment Policy Convention and Recommendation, 1964, in the Employment Service Convention and Recommendation, 1948, and



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# **Constitution and Basic Texts of the Governing Bodies**



International Organization for Migration (IOM)





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IN THE AMOUNT OF SDR 25.3 MILLION  
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TO THE

PEOPLE'S REPUBLIC OF BANGLADESH

FOR AN

EMERGENCY REPATRIATION AND LIVELIHOOD RESTORATION OF MIGRANT  
WORKERS PROJECT

April 19, 2011







United Nations

A/HRC/20/24



## General Assembly

Distr.: General  
2 April 2012

Original: English

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### Human Rights Council

Twentieth session

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## **Report of the Special Rapporteur on the human rights of migrants, François Crépeau**

### *Summary*

The present report is submitted in accordance with Human Rights Council resolution 17/12, and is the first to be presented to the Human Rights Council by the newly

# **UN COMMITTEE ON MIGRANT WORKERS**

---

**GENEVA AUGUST 29 - SEPTEMBER 7 #CMW**

IMPLEMENTATION OF THE CONVENTION ON THE PROTECTION  
OF THE RIGHTS OF ALL MIGRANT WORKERS IN

**HONDURAS, NICARAGUA,  
NIGER, SRI LANKA**

TO BE REVIEWED BY  
UNITED NATIONS EXPERTS





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Global Forum on Migration & Development  
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**UNITED NATIONS SUMMIT FOR  
REFUGEES AND MIGRANTS**

19 September 2016 • UN Headquarters



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## Annex 1

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### International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Adopted by General Assembly Resolution 45/158 of 18 December 1990

#### Preamble

The States Parties to the present Convention,

Taking into account the principles embodied in the basic instruments of the United Nations concerning human rights, in particular the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child,

Taking into account also the principles and standards set forth in the relevant instruments elaborated within the framework of the International Labour Organisation, especially the Convention concerning Migration for Employment (No. 97), the Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 143), the Recommendation concerning Migration for Employment (No. 86), the Recommendation concerning Migrant Workers (No. 151), the Convention concerning Forced or Compulsory Labour (No. 29) and the Convention concerning Abolition of Forced Labour (No. 105), Reaffirming the importance of the principles contained in the Convention against Discrimination in Education of the United Nations Educational, Scientific and Cultural Organization,

Recalling the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Declaration of the Fourth United Nations Congress on the Prevention of Crime and the Treatment

---

## United Nations Committee on Economic, Social and Cultural Rights

### Review of Australia Fifth Periodic Report under the International Covenant on Economic, Social and Cultural Rights

#### National Association of Community Legal Centres and Kingsford Legal Centre Preliminary Submission to Inform Adoption of List of Issues

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August 2016

This submission has been prepared by the **National Association of Community Legal Centres** and Kingsford Legal Centre, with contributions from a number of NGOs across Australia and is endorsed, in whole or in part, by 14 peak and civil society organisations.

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UNSW Sydney 2052  
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JUNE 30, 1921

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JX  
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.N75  
1922



*Deeply alarmed* at the continued occurrence on a large scale of summary or arbitrary executions, including extra-legal executions,

*Recalling* resolution 1982/13 of 7 September 1982 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,<sup>190</sup> in which the Sub-Commission recommended that effective measures should be adopted to prevent the occurrence of summary or arbitrary executions,

*Welcoming* Economic and Social Council resolution 1984/50 of 25 May 1984, and the safeguards guaranteeing protection of the rights of those facing the death penalty annexed thereto, which resolution was endorsed by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders in its resolution 15,<sup>138</sup> as well as the ongoing work on summary or arbitrary executions within the Committee on Crime Prevention and Control,

*Convinced* of the need for appropriate action to combat and eventually eliminate the practice of summary or arbitrary executions, which represents a flagrant violation of the most fundamental human right, the right to life,

1. *Strongly condemns* the large number of summary or arbitrary executions, including extra-legal executions, which continue to take place in various parts of the world;

2. *Demands* that the practice of summary or arbitrary executions be brought to an end;

3. *Welcomes* Economic and Social Council resolution 1982/35 of 7 May 1982, in which the Council decided to appoint for one year a special rapporteur to examine the questions related to summary or arbitrary executions;

4. *Also welcomes* Economic and Social Council resolution 1985/40 of 30 May 1985, in which the Council decided to continue the mandate of the Special Rapporteur, Mr. S. A. Wako, for a further year and requested the Commission on Human Rights to consider the question of summary or arbitrary executions as a matter of high priority at its forty-second session;

5. *Urges* all Governments and all others concerned to co-operate with and assist the Special Rapporteur of the Commission on Human Rights in the implementation of his mandate;

11. *Requests* the Commission on Human Rights at its forty-second session, on the basis of the report of the Special Rapporteur to be prepared in conformity with Economic and Social Council resolutions 1982/35, 1983/36, 1984/35 and 1985/40, to make recommendations concerning appropriate action to combat and eventually eliminate the abhorrent practice of summary or arbitrary executions.

*116th plenary meeting  
13 December 1985*

#### **40/144. Declaration on the human rights of individuals who are not nationals of the country in which they live**

*The General Assembly.*

*Having considered* the question of the human rights of individuals who are not nationals of the country in which they live,

*Decides* to adopt the Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live, which is annexed to the present resolution.

*116th plenary meeting  
13 December 1985*

#### **ANNEX**

##### **Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live**

*The General Assembly.*

*Considering* that the Charter of the United Nations encourages universal respect for and observance of the human rights and fundamental freedoms of all human beings, without distinction as to race, sex, language or religion,

*Considering* that the Universal Declaration of Human Rights<sup>6</sup> proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in that Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

*Considering* that the Universal Declaration of Human Rights proclaims further that everyone has the right to recognition everywhere as a person before the law, that all are equal before the law and entitled without any



A GUIDE  
TO  
DIPLOMATIC PRACTICE

BY THE  
RT. HON. SIR ERNEST SATOW

G.C.M.G., LL.D., D.C.L.  
FORMERLY ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY  
ASSOCIÉ DE L'INSTITUT DE DROIT INTERNATIONAL

VOL. II

SECOND AND REVISED EDITION

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Edited by L. OPPENHEIM, M.A., LL.D., late  
Whewell Professor of International Law in the  
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## Chapter 10

# Soft Law and Institutional Practice in the European Community

Francis Snyder<sup>1</sup>

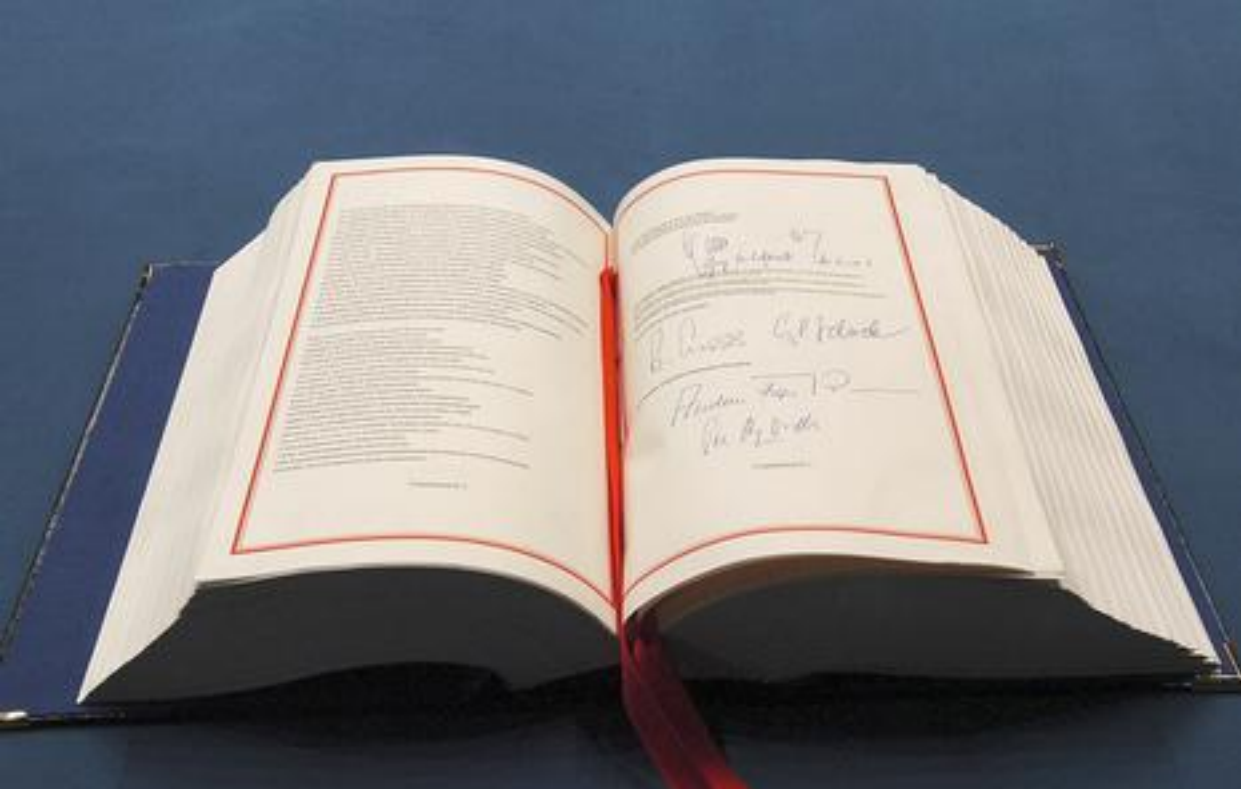
### 10.1 Introduction

The contributions of Emile Noël to the construction of Europe are wide-ranging and numerous. Many are well-known, especially during his administrative work, first in the Council of Europe, then as Secretary-General of the Commission of the European Communities, and most recently as President of the European University Institute.<sup>2</sup> Less evident to the public eye perhaps is his significant contribution to Community law scholarship. The fruit of long experience, it combines careful observation, a finely tuned sense of diplomacy, exemplary self-awareness, and keen insights into administrative practice, thus enriching considerably our understanding of the law and institutions of the European Community.<sup>3</sup> These articles remain

<sup>1</sup>The author thanks Jason Coppel, Renaud Dehousse, Christian Joerges, Giandomenico Majone and Stephen Weatherill for their contributions to this article. He alone of course is responsible for its contents.

<sup>2</sup>On the period up to 1987, see, e.g. *Hommage à Emile Noël* (Luxembourg: Office des publications officielles des Communautés européennes, 1988).

<sup>3</sup>In addition to his classic account, *Working Together: How the European Community Works* (London: HMSO, 1979), my personal favourites are 'The Functioning of the



### *Article 21*

(ex Article 18 TEC)

1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect.
2. If action by the Union should prove necessary to attain this objective and the Treaties have not provided the necessary powers, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt provisions with a view to facilitating the exercise of the rights referred to in paragraph 1.
3. For the same purposes as those referred to in paragraph 1 and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may adopt measures concerning social security or social protection. The Council shall act unanimously after consulting the European Parliament.













**UNITED NATIONS HUMAN RIGHTS COMMITTEE**

**EIGHTY-SEVENTH SESSION**

**REPORT ON THE UNITED STATES' COMPLIANCE WITH THE  
INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS**

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T. Yvette Soutiere, with contributions by Julie Fishel, Western Shoshone Defense Project, and Lucy Simpson, Indian Law Resource Center.

**2. U.S. Exceptionalism and Lack of Implementation**

Penny Venetis, Clinical Professor of Law and Clinical Scholar, Co-Director Constitutional Litigation Clinic, Rutgers School of Law – Newark with the assistance of Cynthia Soohoo and Connie de la Vega.

Submitted on behalf of: Human Rights Advocates  
Lawyers Committee for Civil Rights Under Law, Washington, D.C.  
Penal Reform International  
UN Working Group of the National Lawyers Guild's International Committee  
Women's Institute for Leadership Development for Human Rights

**3. Lack of Access to the Courts to Enforce Civil Rights in the United States**

National Campaign to Restore Civil Rights  
Asian American Legal Defense and Education Fund, New York, NY  
Center for Law and Education  
Center for Public Representation of Northampton MA  
Equal Justice Society, San Francisco, CA  
Human Rights Advocates  
Lawyers Committee for Civil Rights Under Law  
Legal Momentum  
Minnesota Advocates for Human Rights  
National Health Law Program  
St. Mary's Episcopal Church

**I.12. INTERNATIONAL CONVENTION ON THE PROTECTION OF  
THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS  
OF THEIR FAMILIES, 1990**

*Adopted and opened for signature, ratification and accession by General  
Assembly resolution 45/158 of 18 December 1990*

**2220 U.N.T.S. 93**

ALGERIA 21 Apr 2005, AZERBAIJAN 11 Jan 1999, BELIZE 14 Nov 2001, BOLIVIA 16 Oct 2000, BOSNIA AND HERZEGOVINA 13 Dec 1996, BURKINA FASO 26 Nov 2003, CAPE VERDE 16 Sep 1997, CHILE 21 Mar 2005, COLOMBIA 24 May 1995 (\*15, 46, 47), ECUADOR 5 Feb 2002, EGYPT 19 Feb 1993 (\*4, 18(b)), EL SALVADOR 14 Mar 2003 (\*32, 46, 47, 48, 61, 92(1) excluded), GHANA 7 Sep 2000, GUATEMALA 14 Mar 2003, GUINEA 7 Sep 2000, HONDURAS 9 Aug 2005, KYRGYZSTAN 29 Sep 2003, LESOTHO 16 Sep 2005, LIBYAN ARAB JAMAHIRIYA 18 Jun 2004, MALI 5 Jun 200, MEXICO 8 Mar 1999 (\*general, 22(4)), MOROCCO 21 Jun 1993 (\*92(1)), NICARAGUA 26 Oct 2005, PERU 14 Sep 2005, PHILIPPINES 5 Jul 1995, SENEGAL 9 Jun 1999, SEYCHELLES 15 Dec 1994, SRI LANKA 11 Mar 1996 (\*8(2), 29, 49, 54), SYRIAN ARAB REPUBLIC 2 Jun 2005, TAJIKISTAN 8 Jan 2002, TIMOR-LESTE 30 Jan 2004, TURKEY 27 Sep 2004 (\*15, 40, 45, 46, 76, 77), UGANDA 14 Nov 1995 (\*18(3)(d)), URUGUAY 15 Feb 2001

**PART I: SCOPE AND DEFINITIONS**

*Article 1*

1. The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.





**2000 PROTOCOL AGAINST THE SMUGGLING OF  
MIGRANTS BY LAND, SEA AND AIR,  
SUPPLEMENTING THE UNITED NATIONS  
CONVENTION AGAINST TRANSNATIONAL  
ORGANIZED CRIME**

Adopted in New York, The United States of America on 15 November 2000

[http://www.uncjin.org/Documents/Conventions/dcatoc/final\\_documents\\_2/convention\\_smug\\_eng.p  
df](http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_smug_eng.pdf)

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**PROTOCOL TO PREVENT, SUPPRESS AND PUNISH  
TRAFFICKING IN PERSONS, ESPECIALLY WOMEN  
AND CHILDREN, SUPPLEMENTING THE UNITED  
NATIONS CONVENTION AGAINST  
TRANSNATIONAL ORGANIZED CRIME**

Advance copy of the authentic text. The copy certified  
by the Secretary-General will be issued at a later time.



**UNITED NATIONS**

**2000**



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April 19, 2011







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MIGRATION AND DEVELOPMENT BRIEF 26

APRIL 2016

A large, abstract graphic design on the cover. It features several overlapping, curved, ribbon-like shapes in various colors: green, yellow, blue, purple, red, and orange. The shapes are layered and semi-transparent, creating a sense of depth and movement. The background is a light gray gradient.

# Migration and Remittances

Recent Developments and Outlook



# MIGRATION AND DEVELOPMENT

A Role for the  
World Bank Group



# **Social Protection for Temporary Migrant Workers: Conceptual Framework, Country Inventory, Assessment and Guidance\***

**A Study prepared for the Global Forum of Migration and Development  
by Robert Holzmann and Yann Pouget**

**World Bank and Marseille Center for Mediterranean Integration  
Marseille, October 27, 2010**

## **Abstract**

A critical dimension of temporary labor migration is the access to and scope of social protection benefits for migrant workers and their families in the receiving and/or sending countries. The study aims to identify good practices and to provide guidance on the design and composition of such benefit packages, and proceeds in three main sections: Section 1 provides a conceptual framework of social protection benefits for temporary migrants, and suggests differentiating between 3 key types of migrant workers related to length of contracts/levels of skills. Section 2 presents an inventory of such benefits offered by 9 OECD countries plus Singapore, and 6 GCC countries based on a framework-derived template. Section 3 assesses these benefits against the conceptual framework, presents lessons learned from case studies, and offers ideas on how to adjust end-of-service pay schemes to the need of temporary migrants.

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