Democracy, Universalism and Informal Employment: The Committee on Freedom of Association and South Asia

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Introduction

The 70th anniversary of the Committee on Freedom of Association (CFA) is an occasion to reflect on the contribution of this specialized ILO supervisory machinery focussing on freedom of association. The Declaration of Philadelphia indicates that "freedom of expression and of association are essential to sustained progress". The pre-eminent position of freedom of association, and its consequential privileged position among labour standards, was also apparent in the (now discontinued) ILO publication, the *International Labour Code*, which classified a smaller group of Conventions and Recommendations as dealing with "basic human rights".[2] The ILO Declaration on Fundamental Principles and Rights at Work, 1998, which highlights four categories of fundamental principles and rights at work, added the category of the abolition of child labour to the earlier grouping of "basic human rights".

This paper focuses on how the CFA has influenced democratic processes and trade union rights with respect to countries in South Asia. The countries in this region by and large share a common colonial legacy. Writing on the occasion of the 50th anniversary of the CFA, scholars noted that two of the countries in the region (India and Pakistan) figure in the top 30 countries against which complaints have been filed to the CFA.[3] Countries in the region have also responded fairly readily to the recommendations of the CFA. Writing almost 60 years ago, one of the foremost commentators of the ILO during the Cold War period, Ernst B. Haas, noted that countries such as India that are underdeveloped, with mixed economic institutions and assisted by a strong bureaucracy, are those that

1 National Law School of India University, Bengaluru and a member of the ILO Committee of Experts on the Application of Conventions and Recommendations. Views expressed are personal. I am grateful for comments and suggestions received from James Brudney. Errors remain mine.

2 For an analysis of the now-discontinued Code and its relevance, see Tomi Kohiyama and Dražen Petrović, 2019. 'The International Labour Code – Myth or Reality?', in Politakis, G., Kohiyama, T., and T. Lieby (eds), *ILO100: Law for social justice,* Geneva, 815–858.

3 See Gravel, E., Duplessis, I., and B. Gernigon, 2001. *The Committee on Freedom of Association: Its Impact over 50 Years*, Geneva, ILO, p. 72.

show the greatest improvement upon a complaint being referred to the CFA.[4] Over the years, the South Asian region continues to have its fair share of complaints to the CFA: Bangladesh (17), India (70), Nepal (5), Pakistan (31), Sri Lanka (12).[5]

The complaints to the CFA cover a wide range of issues dealing with freedom of association. The next three sections focus on the jurisprudence developed by the CFA dealing with democracy, restrictions on trade union rights during public emergencies and workers in the informal economy, in order to understand the role of the CFA in this region.

1. Democracy and freedom of association

Freedom of association is seen as both a legitimate goal for workers to sustain themselves, and also as the gateway and means to advance the remaining international labour standards pertaining to the world of work. The principle of universalism that underpins the ILO (as well as other international organizations) makes its international labour standards applicable to a Member State irrespective of the political or institutional arrangements within the country. What is noteworthy is that the Declaration of Philadelphia, adopted in the closing years of the Second World War, made a connection between democratic processes and the enjoyment of freedom of association, without endorsing any particular political or economic system.[6] Subsequently, the ILO made a connection between democracy, civil liberties and trade union rights.[7]

The CFA has often pointed out that, when a State becomes a Member of the ILO, it accepts the fundamental principles in its Constitution and the Declaration of Philadelphia, including the principles of freedom of association.[8] Public accountability is a feature of the procedure adopted by the CFA when considering complaints. The need for governments to reply to a complaint by a trade union, even if the infringement is by a private employer, extends the vertical and horizontal accountability of the government to the ILO and to individual trade unionists within the country. The provisions of the ILO Constitution dealing with federal states compel a federal state to speak to the CFA with a single

4 Haas, E.B., 1964. *Beyond the nation-state: Functionalism and international organization*, Stanford University Press.

5 For cases from India, see Sankaran, K., 2009. *Freedom of Association in India and International Labour Standards*, Nagpur, LexisNexis Wadhwa.

6 The Declaration of Philadelphia, after noting that "poverty anywhere constitutes a danger to prosperity everywhere", goes on to assert that "(d) the war against want requires to be carried on with unrelenting vigour within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of governments, join with them in *free discussion and democratic decision* with a view to the promotion of the common welfare" (emphasis supplied).

7 ILO, 1970. Resolution concerning trade union rights and their relation to civil liberties, op. cit.; and ILO, 1992. *Democratisation and the ILO*, op. cit.

8 CFA, Compilation of decisions, para. 44.

voice.[9] The easy accessibility of the reports of the CFA may sometimes serve as the only record in the public domain of infringements of trade union rights in countries where there is a clampdown on civil liberties. Yet, some sections of workers are consistently absent from the 'docket' of the CFA, notably workers in the informal economy, which poses a challenge to the potential influence of the CFA.[10]

There is obviously an overlap between political and purely economic, bread and butter unionism. The CFA has always been prepared to acknowledge this overlap. The political views of trade unions are often manifest in their publications, actions, fund-raising and strike action. Dealing with an early complaint by a Bangladeshi trade union that the Government had prohibited publication of its weekly newspaper, the CFA observed that the chief role of such publications is to advance the interests of trade union members and workers generally. Yet, it also noted that it would be difficult to separate purely trade union concerns from broader political matters. The CFA concluded that: "In view of the fact that these two notions overlap, it is inevitable and sometimes proper for trade union publications to take a stand on questions which have a political aspect as well as on strictly economic and social questions. However, the Committee also considered that it is only in so far as they do not allow their professional demands to assume a clearly political aspect that trade union organisations can legitimately claim that there should be no interference with their activities".[11]

This conclusion underscores the links between trade unions and civil liberties, and recognizes the social mandate of trade unions. This view of the CFA finds endorsement in the 1970 ILC Resolution concerning trade union rights and their relation to civil liberties.[12] The emphasis on creating a conducive environment for the enjoyment of civil liberties also draws attention to the central role of the Government, even in the case of private sector workers, and that "the ultimate responsibility for ensuring respect for the principles of freedom of association lies with the Government".[13]

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9 For instance, India and Pakistan (and now more recently since 2015, Nepal) are federal states. Where the political party at the centre varies from the provincial government, or where the issues relate to matters within the specific domain of the provinces (such as matters of law and order in India, or labour matters, following the 18th constitutional amendment, in Pakistan), there are inevitable delays in responding to the CFA. The role of the central government is often only to transmit the observations of the CFA, and ensuring compliance by provincial governments remains a challenge. For details of the constitutional amendment in Pakistan and its effect on labour matters see, Furqan Mohammed, 2012. "Protecting Pakistani Laborers Post-Eighteenth Amendment: Recognizing Rights after the Devolution of Power", *Loyola University Chicago International Law Review*, 9(2), 265–296.

10 The final examination of the complaint is deferred so as to allow governments to reply, and additional material may also be filed by the complainant. Following the CFA's final observations, matters continue to be followed up. As a result, a complaint may take several years to be finally disposed of. The CFA's scrutiny in an ongoing complaint relating to the Maldives indicates the care and patience with which its examination proceeds. Dealing with the complaint filed in 2014 concerning the use of disproportionate force against strikers, along with repeated arrests, the CFA has noted that the procedure it adopts of seeking views from all concerned "is to promote respect for this freedom in law and in fact". See CFA, Case No. 3076 (Maldives), Report No. 391, 2019, para. 399.

11 CFA, Case No. 729 (Bangladesh), Report No. 141, 1974, para. 16.

12 ILO, 1970. Resolution concerning trade union rights and their relation to civil liberties, op. cit.

13 CFA, Case No. 3076 (Maldives), Report No. 391, 2019, para. 410.

Yet, the CFA has been cautious not to conflate political activities and trade union activities, and has drawn bright lines around those trade union activities which it would recognize and those which are not peaceful or which are in violation of the law of the land. The greater challenge for the CFA in protecting freedom of association has been in cases where the ordinary law has been suspended or greater powers have been granted to the executive during periods of public emergency. The next section examines the declaration of public emergency in South Asia and the CFA's role in the protection of trade union rights in the region.

2. Effect of public emergency

Many of the countries in South Asia have had periods of public emergency, and in some instances, the imposition of martial law.[14] Writing nearly 100 years ago, the political theorist Carl Schmitt indicated that during such emergencies "the state remains, whereas law recedes".[15] Scholars note that many liberal constitutions of the Anglo-American tradition do not contain provisions for the imposition of emergency, but constitutions in the South Asian region have explicit provisions authorizing such imposition, which have been used off and on. The extent of judicial review of proclamations of emergency by the national courts has varied across the countries of the region, and court decisions have yielded a rich body of constitutional principles addressing, inter alia, questions of proportionality and necessity. Of particular interest here is that the CFA, when dealing with the effects of such emergency proclamations on trade union rights, has not shied away from examining the consequences of such public emergencies and has called for the review of legal provisions or executive orders where required.

A complaint relating to Sri Lanka illustrates the manner in which the CFA has dealt with complex questions concerning the curtailment of trade union action and collective bargaining due to such emergency regulations.[16] Following a dispute over the conclusion of a wage agreement, the workers in a State-owned port went on a work-to-rule strike. On a challenge by some affected apparel organizations, the Supreme Court of Sri Lanka ordered a temporary prohibition of such strike action on the ground of prima facie illegality and the loss to the nation as a whole. In the meantime, the Sri Lanka Government issued the Emergency (Miscellaneous Provisions and Powers) Regulation No. 01 of 2005

14 Kalhan indicates that the military often plays a much greater role domestically in parts of Asia than it has historically in many liberal constitutional democracies See Kalhan, A., 2010. "Constitution and 'extraconstitution': Colonial emergency regimes in postcolonial India and Pakistan", in Ramraj, V. and A. Thiruvengadam, (eds) . *Emergency powers in Asia: Exploring the limits of legality*, Cambridge University Press.

15 Cited in Ramraj, V., 2010. "The emergency powers paradox", in Ramraj and Thiruvengadam, *Emergency Powers in Asia*:, op. cit., p. 25.

16 CFA, Case No. 2519, filed by the Free Trade Zone and General Services Employees Union, the Jathika Sewaka Sangamaya, the Suhada Waraya Sewaka Sangamaya, the United Federation of Labour, the Union of Post and Telecommunication Officers and the Dumriya Podhu Sewaka Sahayogitha Vurthiya Samithiya, supported by the International Textile, Garment and Leather Workers' Federation (ITGLWF) and the International Transport Workers' Federation (ITF).

under the Public Security Ordinance covering an expanded schedule of services, including ports, deemed to be essential. The Government in its reply also indicated that it would be appropriate if the CFA were to defer consideration, as a suit concerning these matters was still pending before the Supreme Court.

However, the CFA, while noting that internal judicial procedures were always given due consideration, concluded that its own competence was not dependent on the exhaustion of national procedures and proceeded with its consideration of the case. On examination of the complaint, the CFA concluded that "generally speaking, ports do not constitute an essential service in the strict sense of the term".[17] Further, prohibiting a strike when "no evidence has been put forward to establish the existence of a clear and imminent threat to the life, personal safety or health of the whole or part of the population"[18] was contrary to the principles of freedom of association. The CFA recommended that the Government review the emergency regulation and the list of services included as 'essential' in consultation with workers' and employers' organizations and in light of Conventions Nos 87 and 98. The CFA added that: "Should the case still be pending before the Supreme Court, the Committee requests the Government to take the necessary measures to expedite the judicial process and ensure that the Committee's conclusions, particularly those concerning the exercise of the right to strike, are submitted for the Supreme Court's consideration".[19]

The follow-up to this case by the CFA indicates that the employers objected to the views taken by the CFA regarding the protection given to go-slow actions. The Government, in its further reply, also provided a copy of the Supreme Court order which noted that, after the prohibition of the strike action, the collective agreement was concluded. Yet the Court rebuked the complainants (who were parties in the matter before it) for proceeding to the CFA while the matter was sub judice. The CFA noted that the Court "maintained that, as the organizations concerned owed a paramount duty to have matters already before the Court concluded, they therefore should not have sought redress from an external body; their complaint to the Committee, as such, amounted 'per se to defiance of [the] Court and of the law of this Country'".[20]

The CFA has often put on hold its consideration of a matter pending examination by a national judicial body of the substance of the complaint. When doing so, it has expressed the hope that domestic courts "will take into consideration the principles of freedom of association and the Committee's previous conclusions in this case".[21] Yet, in cases such as the one relating to Sri Lanka, the CFA continued to maintain that it was competent to examine the effect of the Emergency Regulation and its compliance with the provisions

17 CFA, Case No. 2519 (Sri Lanka), Report No. 348, 2007, para. 1142.

18 Ibid.

19 Ibid., para. 1156.

20 CFA, Case No. 2519 (Sri Lanka), Report No. 350, 2008, para 205.

21 See, for instance, CFA, Case No. 3076 (Maldives), Report No. 391, 2019, para. 402.

of Conventions Nos 87 and 98, which Sri Lanka has ratified. While national courts may or may not have the jurisdiction to examine the legality of an emergency regulation or proclamation under the principles of proportionality, the CFA has steadfastly continued with its examination of the effect of such emergency regulations on trade union rights. Indeed, the CFA noted that, given the mandate of the ILO, as set out in its Constitution, "the matters dealt with by the Organization in this connection no longer fall within the exclusive sphere of States and the action taken by the Organization for the purpose cannot be considered to be interference in internal affairs, since it falls within the terms of reference that the ILO has received from its Members with a view to attaining the aims assigned to it".[22] The continued examination and follow-up of the case also resulted, as the CFA noted with satisfaction, in the repeal by the Government of the schedule of essential services provided for in Emergency (Miscellaneous Provisions and Powers) Regulation No. 01.

Complaints have been filed with the CFA alleging the arrest of leaders under preventive detention laws and the severe restriction of trade union rights, particularly strike action, during periods of public emergencies in most of the countries of South Asia. Due to the difficulties experienced by trade unions during such periods, the CFA's rules of procedure, which confer standing on international trade unions to bring complaints on behalf of their affiliates within Member States, have been used by national trade unions. The first session of the CFA in 1952 took up for consideration the first complaint from India brought by both an Indian and an international trade union regarding the effects of the imposition of a state-level public security law. Similarly, the first case from Pakistan to the CFA relating to public security laws was brought by a large number of international trade unions.[23]

Apart from proclamations of public emergencies, there have also been instances of the imposition of martial law. There is a distinction between a declaration of emergency and the imposition of martial law, and the CFA is mindful of this distinction.[24] Some countries in the region have also been placed under martial law through proclamations under which the Constitution may itself be suspended or abrogated, and the normal system of judicial redress may become unavailable. The CFA has emphasized the need for judicial oversight of action taken by the executive during martial law. For instance, in cases where trade unionists have been arrested or charged under laws made during martial law, the CFA has indicated "that appeals from labour court decisions may, under martial law, only

22 CFA, Case No. 2519 (Sri Lanka), Report No. 350, 2008, para. 206.

23 CFA, Case No. 5 (India), separate complaints by the Hind Mazdoor Sabha and the World Federation of Trade Unions, Report No. 4 (1953); Case No. 49 (Pakistan), separate complaints by the World Federation of Trade Unions, the Netherlands Unified T.U, the Pancyprian Federation of Labour, the Burma Trade Union Congress, the Confederation of Brazilian Workers, the Arab Trade Union Congress (Nazareth), the Trade Unions International of Workers in the Building, Wood and Buildings Materials Industries (Helsinki), the National Federation of Building, Public Works and Building Materials Workers, the Central Council of Trade Unions (Prague), the Textile and Clothing Workers' Trade Union International (Warsaw), and the International Union of Agricultural and Forestry Workers.

24 CFA, Compilation of decisions, para. 200.

go to the Chief Martial Law Administrator, a Government authority. This is contrary to one of the longstanding principles of freedom of association, according to which the final review of labour disputes must be by judicial bodies, not martial law authorities".[25] This approach highlights the importance that the CFA places on the rule of law, as the context within which trade union rights can be enjoyed. Its understanding is not to be linked merely to electoral democracy or the encoding of trade union rights within the law, but translates into the enjoyment of civil liberties in practice, and also the requirement of an independent judicial review of administrative action.

Following the closure of a complaint against a Member State that has ratified Conventions Nos 87 and 98, the CFA calls on the CEACR to monitor the follow-up regarding any changes in law and practice that it may have recommended as part of its report. For instance, in the case from Bangladesh discussed above, the complainant indicated that laws made under martial law, the Industrial Relations (Regulation) Ordinance (No. XXVI) of 30 August 1982 and the "guidelines for determination of collective bargaining agents" published under that Ordinance on 6 September 1982, violated Conventions Nos 87 and 98. The CFA noted that the CEACR too in its report had commented on these restrictions and made a request to the Government. The CFA concluded that it "would endorse these comments and requests".[26] The coordinated action of the supervisory bodies seeks to translate their recommendations into the law and practice of Member States.

3. The CFA and the informal economy

Trade union density is fairly low in the countries of South Asia, Sri Lanka had a relatively higher rate of 15.5 per cent (in 2016), while among the other countries in the region, India had a density rate of 12.8 per cent (2011), while in Pakistan it was 5.6 per cent (2008).[27] Other reports indicate that Bangladesh and Nepal had a trade union density of 11 per cent each.[28] The reasons for the low trade union density could be several, and particularly the large numbers in informal employment, including those in self-employment and those working as unpaid family workers. Such workers often work in scattered establishments, including their own homes. But even in relatively more organized workplaces, such as large-scale establishments, the replacement of regular workers with temporary sub-contracted workers, who are vulnerable and not unionized, has also led to a low level of trade union density. Convention No. 87, with its emphasis on the right to organize "without distinction whatsoever", stresses the wide reach of this core Convention.[29]

25 CFA, Case No. 1214 (Bangladesh), Report 230 (1983), para. 346.

26 Ibid., para. 350.

27 ILO, Statistics on union membership, ILOSTAT.

28 Danish Trade Union Development Agency, Labour Market Profile 2019: Nepal, and Labour Market Profile 2020: Bangladesh.

29 Apart from India and Nepal, the other countries in South Asia (Bangladesh, Maldives, Pakistan and Sri Lanka) have ratified Convention No. 87.

Over the past two decades, the ILO has focussed on forms of work which predominate in the informal economy, for example in its standards on home work, domestic work and part-time work, and has also set out a road map for a transition from the informal to the formal economy.[30] Has this resulted in a greater number of cases coming before the CFA from workers in the informal economy? The focus of most complaints has been on those in employment relationships and working in the formal economy. Complaints involving self-employed rural workers, marginal agricultural workers, artisanal fishers, forest workers, street vendors, rickshaw pullers, waste pickers or homeworkers have largely not been brought before the CFA. While the CFA has repeatedly emphasized the universality of the right to form trade unions "without any distinction whatsoever",[31] the low levels of unionization of informal workers may account for the relative absence of complaints to the CFA and the consequential lack of jurisprudence on how trade union rights can be restricted in the case of *self-employed* workers in informal employment.

In contrast, there is greater CFA 'case law' pertaining to those in employment *relationships* in the informal economy. Take, for instance, workers engaged in waged work, but whose engagement is sporadic and casual, and who are treated as 'volunteers' who merely receive an honorarium, not a wage.[32] Case No. 3100 concerning India is an example. Tens of thousands (130,000) of young persons were recruited as "civic police volunteers" to supplement mainstream policing and provide short-term guard duties in the state of West Bengal prior to the elections in 2014. The "volunteers" were paid sporadically and were dismissed after a few months.

In its reply, the Government stated that the civic volunteers, earlier known as civic police volunteers, were enrolled to supplement the workforce for policing on special occasions, such as festivals and emergency situations for traffic management, that this was purely voluntary service to involve the community in some police-related duties on certain occasions, that it was not regular employment, for which there could be claims relating to the payment of wages, and that an honorarium was paid to them. Further, the Government stated that civic volunteers were not under any obligation to work for the Government and were free to take up any employment with any government or private agency at any point of time.

While the Government denied any employment relationship in the case of civic volunteers, the CFA indicated that "it considers that the activities carried out by the West Bengal civic police volunteers *constitute work* and as such are covered by the principles of freedom of association"[33] (emphasis added). It also recalled that, according to the

30 See the Part-Time Work Convention, 1994 (No. 175), the Home Work Convention, 1996 (No. 177), the Domestic Workers Convention, 2011 (No. 189), and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).

31 CFA, Compilation of decisions, para 329.

32 Interns receiving a stipend could also form part of this group of workers disguised as "volunteers".

33 CFA, Case No. 3100 (India), Report No. 377 (2016), para. 370.

principles of freedom of association, such workers have the right to establish and join organizations of their own choosing.

The CFA referred to the *State of the World Volunteerism Report* (2011), drawn up by UN Volunteers, which states that the "three criteria of free will, non-pecuniary motivation, and benefit to others can be applied to any action to assess whether it is volunteerism". The honorarium paid in this case, while lower than the minimum wage, was not a token amount. The CFA observed that it was "beyond a symbolic compensation to cover expenses" and that the volunteers were mainly "unemployed young people who enrol in the force precisely in order to collect an honorarium in the absence of other sources of income and thus can be considered to have pecuniary motivations".[34] The CFA also did not accept that these civic volunteers were purely volunteers, since the Government orders contained provisions for their successive and continued enrolment for a fixed duration. While not explicitly declaring that the civic volunteers were in an employment relationship (albeit of short duration), the CFA instead maintained that it was a category of "work". The CFA added that, in light of the above, it considered "that the work of civic volunteers, which entails compensation, determination of working hours, and continuity of service, must similarly afford these workers with the protection afforded by freedom of association principles, including the right to collective bargaining."[35] Accordingly, the CFA called on the Government to engage in constructive social dialogue and collective bargaining with a view to resolving these matters. It is worth noting that, although the CFA cautiously refrained from declaring the volunteers employees, it sought to apply the principles of freedom of association to civic volunteers as persons who "work".[36] The CFA also called for social dialogue and collective bargaining between the Government and the civic volunteers.

Most cases that come before the CFA pertain to waged employees who are in regular/casual/part-time/temporary employment relationships. The case of civic volunteers is significant because it broadens the category of those who approach the CFA to include those who "work". The nature of this expansion includes self-employed or own-account workers, such as those in the informal economy. It also includes those whose employment status may be disguised or ambiguous (as indicated in the Employment Relationship Recommendation, 2006 (No. 198)), and who, on the basis of the facts, could be determined to fall within the category of those who "work". In the case of the informal economy, this could further include the category of own-account workers who in turn employ unpaid workers.

The use of the expression "social dialogue" by the CFA is in addition to the expression "collective bargaining", which is normally used in the context of the principles of freedom

34 Ibid., para 372.

35 Ibid., para 373.

36 For the status of "volunteers", see La Hovary, C., and J. Agustí Panareda, "What is work? A malleable notion in the ILO's legal pursuit of social justice", in Politakis, Kohiyama and Lieby (eds), *ILO100: Law for Social Justice*, op. cit..

of association under Conventions Nos 87 and 98. The social dialogue concept allows for negotiations and agreements between categories of self-employed workers and public authorities as part of freedom of association, and allows for agreements to take place between workers and those who engage them. This is in line with the Committee of Expert's observations in its 2012 General Survey regarding the broad scope of social dialogue and collective bargaining.[37] Similarly, by emphasizing the nature of the "work" they perform, rather than their employment status, this case opens up the possibility of organizations of gig and platform workers approaching the CFA in future. This decision goes a step further in not only bringing visibility to those in informal employment, but is itself a step in the transition to formalization. It will also help to link the legal and juridical categories of "employees" and "workers" more closely to the comprehensive broad normative and statistical concept of "workers" used in ILO standards and the statistics collected by the various countries.[38]

Conclusions

Over its 70-year history, the CFA has built up a considerable body of jurisprudence relating to trade union rights. The cases that come before the CFA are a reflection of the geographical and sectoral diversity of those who work, and who see value in approaching the CFA for its consideration. The CFA's own procedures and manner of functioning have enhanced its ability to influence outcomes in Member States. Its rules of receivability, which grant standing to national and international organizations, have offered visibility and voice to a greater cross-section of workers. The reports of the CFA, which meticulously record the substance of the complaints, the replies of the governments and the conclusions of the Committee, serve as repositories of public deliberation. At the same time, this success requires broader dissemination of the decisions and jurisprudence of the CFA in member States. As the CFA looks toward its future, and as the world of work encompasses different and newer forms of work, the relevance of its decisions is bound to grow.

References

Danish Trade Union Development Agency, Labour Market Profile 2019: Nepal, and Labour Market Profile 2020: Bangladesh.

Gravel, E., Duplessis, I., and B. Gernigon, 2001. *The Committee on Freedom of Association: Its Impact over 50 Years*, Geneva, ILO, p. 72.

Haas, E.B., 1964. *Beyond the nation-state: Functionalism and international organization*, Stanford University Press.

37 ILO, 2012. *Giving globalization a human face*, op. cit., paras 75 and 209.

38 See Sankaran, K., 2011. "Informal Employment and Challenges for Labour Law", in Davidov, G., and B. Langille (eds.), *The Idea of Labour Law*, OUP, New York.

Kalhan, A., 2010. "Constitution and 'extraconstitution': Colonial emergency regimes in postcolonial India and Pakistan", in Ramraj, V. and A. Thiruvengadam, (eds). *Emergency powers in Asia: Exploring the limits of legality*, Cambridge University Press.

Kohiyama, Tomi and Dražen Petrović, 2019. 'The International Labour Code – Myth or Reality?', in Politakis, G., Kohiyama, T., and T. Lieby (eds), *ILO100: Law for social justice*, Geneva, 815–858.

La Hovary, C., and J. Agustí Panareda, "What is work? A malleable notion in the ILO's legal pursuit of social justice", in Politakis, Kohiyama and Lieby (eds), *ILO100: Law for Social Justice*.

Mohammed, Furqan, 2012. "Protecting Pakistani Laborers Post-Eighteenth Amendment: Recognizing Rights after the Devolution of Power", *Loyola University Chicago International Law Review*, 9(2), 265–296.

Ramraj, V., 2010. "The emergency powers paradox", in Ramraj and Thiruvengadam, *Emergency Powers in Asia*, p. 25.

Sankaran, K., 2009. *Freedom of Association in India and International Labour Standards*, Nagpur, LexisNexis Wadhwa.

Sankaran, K., 2011. "Informal Employment and Challenges for Labour Law", in Davidov, G., and B. Langille (eds.), *The Idea of Labour Law*, OUP, New York.