

LABOUR AND SOCIAL JUSTICE

SAFETY FOR THE PUBLIC, RIGHTS FOR THE DRIVER

South Korea's transport workers campaign for safe rates

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Self-employed truck drivers have been dependent on labour intermediaries for precarious jobs even before digital platforms and apps have further increased work pressure.



Based on the collective identity of being transport workers, they have organized in the *TruckSol* Union and led strikes that impacted the logistics sector.



Learning from their Australian counterparts, the union campaigned for »Safe Rates«. Winning the argument that workers' rights and public safety are connected, industry standards have been set.

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»**Trade Unions in Transformation 4.0**« examines unions' strategic actions to mobilize power resources in a »new world of work« in which capital uses digital technology to re-organize the labour process. The Global Trade Union Programme of the FES aims to understand how the power balance between capital and labour is impacted and how workers are responding to the threats of the digital rollback towards greater exploitation and precariousness of workers. Pursuing a dialogue and action-oriented approach, the project ultimately intends to contribute to trade unions' strategic reflections, experimentation and purposeful transformation.

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1

INTRODUCTION

The road transport sector is one of the fastest changing industries undergoing transformations in the world of work. Globalisation, new technologies and the prevalence of e-commerce have led to job creation but have also brought along negative consequences for working conditions. The increasing use of subcontracting has created an industrial structure marked by a succession of contracts to provide goods or service for a principal organisation – »supply chains«. The succession of contracts is not simply the result of uncontrolled subcontracting; rather, a supply chain is a network, with contract conditions and oversight so that the principal can retain control of the quality and timeliness of the goods provided (Quinlan 2011). For example, supply chain actors such as Amazon operate as *de facto* employers for truck drivers, largely dictating rates and conditions for the work they contract out.

This case study explores how trade unions can address these challenges, with an example of organising of owner-operators in Korea. In particular, considering digital technologies help supply chain actors to enhance their power, the focus will be how lead firms are made accountable for decent work deficits on supply chains. This study shows how trade unions can develop a comprehensive campaigning for decent work for all, and strengthen their power resources.

To develop union strategies to cope with transformations in the world of work, we were able to obtain a helpful theoretical frame from Silver's work (Silver 2003). Silver relied on differentiating types of workers' power, which were broken down into associational and structural power by Wright (2000: 962). Associational power consists of »the various forms of power that result from the formation of collective organisation of workers«. Structural power, in contrast, consists of the power that accrues to workers »simply from their location ... in the economic system.« On top of the basic concepts mentioned above, Schmalz and Dörre spelled out the inventory of power resources in more detail: structural power, associational power, institutional power and societal power (Schmalz and Dörre 2018).

Research methodologies combine a socio-legal analysis of institutions with qualitative interviews and surveys on the working conditions of owner-operators. I have conducted a review of union documents since 2002, when owner-operators formed their union. The research was supplemented by focus group interviews with union officials and activists.¹ In addition, I carried out a survey on working conditions of truckers who received freights via a labour platform. The survey was conducted from September to October 2019, and one hundred truckers responded.

¹ The interviews were conducted in August 2019, with the interviewed persons being divided into three sub-groups: those who are elected representatives of the union branches, those who usually work in Pusan, a traditional hub of road freight transport, and those who usually work for particular transport buyers (i.e. steel manufacturers).

2

CONTEXT

2.1 INDUSTRIAL STRUCTURE OF ROAD FREIGHT TRANSPORT

In South Korea, the road freight transport sector accounted for a 91 per cent share of domestic freight traffic volumes in 2016 (Korea Transport Database 2017). The Korean road freight transport sector is characterised by a multi-layered structure of subcontracting and the widespread use of owner-operators.

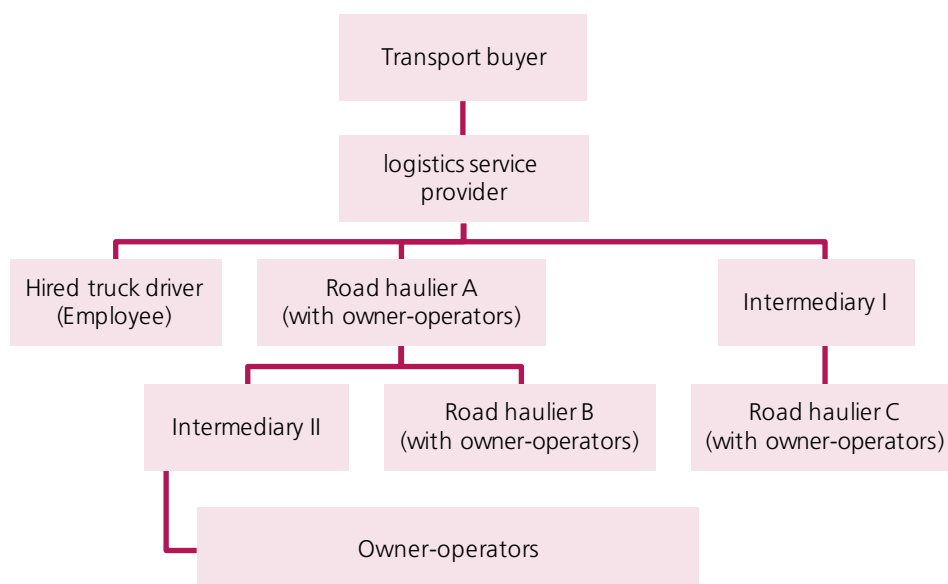
Historically, the road transport sector has been crowded with a lot of small-sized companies. Small road hauliers of 20 or less trucks account for 70 per cent of road freight transport companies that own five or fewer trucks (36.5 per cent), five to 10 trucks (17.3 per cent) and 10 to 20 trucks (14.9 per cent) (National Statistics Office 2018). As small-sized hauliers are incapable of getting a contract of carriage with transport buyers, they mostly depend on subcontracting from bigger companies and intermediaries.

Figure 1 below describes the industrial structure of the Korean road freight transport sector. At the top, »transport

buyer« refers to any individual or business that commercially contracts road freight that is important to its business performance. Under the level of transport buyer, »logistics service provider« refers to a party which dispatches shipments for individuals or other companies via road hauliers and arranges space for these shipments. A »road haulier« refers to a business carrier that hires commercial motor vehicle (CMV) drivers – whether wage-earning or owner-operators – and whose main activity is to transport freight.

Let's take a look at Figure 1 and the example of carriage of automobiles. Hyundai Motors (transport buyer) entrust the automobile logistics to Hyundai Globis (logistics service provider), which is a subsidiary of the Hyundai conglomerate. Hyundai Globis usually concludes a contract of carriage with road haulier A (so-called »primary subcontractors«). If the freight volume exceeds the volume of road haulier A, Hyundai Globis uses Intermediary I as freight forwarder. Road haulier A usually performs the carriage through its owner-operators, but often contracts out again to road haulier B (so-called »secondary subcontractors«) or Intermediary II. All road hauliers use mainly owner-operators.

Figure 1
Industrial structure of the Korean road freight transport sector



Sources: author's own development

A survey conducted in 2018 showed that the level above the tri-level of subcontracting accounted for 32.7 per cent, although such cascade subcontracting was illegal (Korea Transport Institute 2018).

Deregulation policies of the Korean government played a major role in shaping the industrial structure as described in Figure 1. Since the 1990s, the government has implemented a series of deregulation measures, including the abolition of entry barriers to the road freight transport sector and liberalisation of freight rates, with the aim of encouraging competition. For instance, after 1998, the minimum number of trucks required in order to receive a trucking transport business license was reduced from 25 to five, with this number then being reduced to one after 2005. As a result, the number of small-sized road hauliers that cannot receive a contract of carriage directly from transport buyers has increased. Consequently, most hauliers have had to rely on logistics service providers which are subsidiaries of goods-owners, and intermediaries such as freight forwarders.

Additionally, the government legitimated previously illicit practices of the trucking transport business in the use of owner-operators. Before 1997, it was illegal for hauliers to contract out the performance of carriage to owner-operators, and consequently, owner-operators were regarded as *de facto* employees of hauliers. However, the amended *Trucking Transport Business Act* of 1997 legitimated the practice of using owner-operators under the rubric of »Entrustment of Business Management«. At the same time, owner-operators are regarded as »independent contractors«. As a result, small hauliers do not need to own trucks or to hire drivers, and they mainly function as an intermediary that provides owner-operators to perform carriage. A survey conducted in 2013 showed that about 40 per cent of total road hauliers were *de facto* an intermediary which contracted out the whole performance of carriage to owner-operators (Lee T.-H. et al. 2014).

Consequently, employment conditions in the road freight transport sector are characterised by the predominance of owner-operators among workers. Since these owner-operators have their own trucks and bear the expenses of the operation of vehicles, they are regarded as »independent contractors« or »self-employed«. In reality, however, they are dependent on the particular freight transport companies or transport buyers, and they drive trucks by themselves without employing others. It was reported in 2018 that these owner-operators accounted for over 93.6 per cent of all truck drivers (Korea Transport Institute 2018).

2.2 ORGANISING OWNER-OPERATORS

Since the early 2000s, owner-operators in the road transport sector have been attempting to form organisations to improve their economic conditions. The most important motive has arisen from poor incomes due to multi-layered subcontracting and an increase in costs (particularly the cost of oil). Any increases in rates (payment) have been restricted

within narrow limits under the multi-layered subcontracting system, while a rise in oil prices has directly brought about a decrease in income. At first, some owner-operators attempted to form business associations to improve their economic conditions and to organise sporadic protests against increased toll prices on the expressway. As these efforts did not lead to any substantial improvements, owner-operators considered forming a trade union. Some of them contacted the Seoul Regional Council of Korean Confederation of Trade Unions (KCTU) and the Korean Cargo Transport Workers Federation (KCTWF).

On the other hand, the KCTWF had a strong interest in organising owner-operators. Historically, most chapters of the KCTWF had been rooted in previous enterprise-level trade unions. As hauliers were using subcontracting and owner-operators more and more, the KCTWF did not represent a large number of workers in the road freight sector. In 1999, the KCTWF began changing its structure from the previous enterprise-level units to regional-based units, allocating resources to organise unorganised workers such as owner-operators. When owner-operators came knocking at the door of the KCTWF, it helped very actively owner-operators to join the trade union.

After several months of consultation, the owner-operators formed a special unit – called Cargo Truckers' Solidarity Union (*Hwamulyundai* – in Korean *TruckSol*) – under the KCTWF in October 2002.

In May 2003, the Cargo Truckers' Solidarity Union (*TruckSol*) called its first general strike, which lasted 14 days, and a huge number of non-unionised owner-operators also participated in this strike. Their demands included elimination of multi-layered subcontracting, a reduction of costs (particularly those caused by oil taxes), securing collective labour rights and application of the *Industrial Accident Compensation Act*. The strike in May 2003 was a reaction of workers to the poor working conditions of owner-operators and the irrational industrial structure, and gave owner-operators the self-confidence to carry the fight for change further. After the first strike, membership increased from 1,300 at the beginning of October 2002 to 25,000 members. This rapid unionisation shows that owner-operators, irrespective of union membership, shared a broad dissatisfaction with their economic conditions and identified with the demands of *TruckSol*.

Although the union density of *TruckSol* was below 10 per cent, the power of the strike was so great that it was able to disrupt export and import logistics. This was thanks to the relatively high density (around 30 per cent) of container truck drivers working mainly in the area of export and import goods logistics.

After the first successful strike, which was portrayed as »a major disruption of logistics« by the mass media, the KCTWF and the government reached an agreement that included subsidies for the oil tax, regulation of multi-layered

subcontracting², and protection of owner-operators with industrial accident compensation insurance. Although the government did not honour many of these agreements later, such as labour protection, this agreement became a cornerstone in the recognition of *TruckSol* as a *de facto* party to industrial relations.

These previous successes show how *TruckSol's* activation of structural power (by means of strikes) resulted in the strengthening of associational power (i.e. increase in union membership) while gaining inroads in institutional power (i.e. agreement with the government on an oil tax subsidy, regulations on multi-layered subcontracting, and accident compensation insurance coverage for owner-operators).

TruckSol has, from the beginning, focused its ire on government policies at the national level, and only later pursued collective bargaining with freight transport companies. There have been very practical reasons for this. First of all, the KCTWF tried to adjust the main demands of owner-operators to changes in government policies since the trade union attributed their poor working conditions to government policies and industrial structure. Second, it was difficult to achieve effective collective bargaining with freight transport companies in the earliest phase because big freight transport companies and goods-owners refused to bargain on the grounds that they were not employers. As shown in Chart 1, bargaining with subcontractors or intermediaries was ineffective because they did not have the power to improve the working conditions controlled by big freight companies and transport buyers. As such, bargaining with user-enterprises began after the KCTWF and the government had reached an agreement.

As already mentioned, the first successful strike in May 2003 moved the government to come to the bargaining table with *TruckSol* and accept some demands. The government, however, did not honour this agreement and instead introduced new restrictions on collective labour rights, referred to as 'back-to-work orders'. Under the *Trucking Transport Business Act*, as amended in December 2003, the Ministry of Land, Infrastructure and Transport is allowed to issue back-to-work orders to individual truck drivers involved in a collective refusal-to-work when such activity is deemed to be without just cause and/or could cause a significant crisis in the national economy. If truck drivers do not follow back-to-work orders, drivers are subject to penalties, including cancellation of their driver's license, fines and even imprisonment.

Furthermore, the government has attempted to deprive *TruckSol* of its legal status. Under Korean labour law, all trade unions are required to register with the Ministry of

Employment & Labour (MoEL), but branch divisions of existing trade unions do not need to do so. Owner-operators formed their organisation as a special unit of the existing trade union in order to avoid legal disputes over the right to organise self-employed workers. Nevertheless, the MoEL issued an administrative order in 2009 to modify the KTWU by-law so as to exclude owner-operators.³ As the KTWU has refused to follow that order, it is likely that the registration could be cancelled and the legal status of the union and industrial relations put in danger as a whole. The position of the government has been basically very negative when it comes to recognising *TruckSol* as a trade union, and it has instead treated it as a business association. For instance, the government negotiated with *TruckSol* on subsidising the oil tax, but refused to discuss collective labour rights.

In this hostile environment, freight transport companies have often refused to recognise *TruckSol* as a trade union and refused to collectively bargain with it. Even in cases where a company was compelled to come to the collective bargaining table, it often insisted on signing an agreement with individual owner-operators – not with *TruckSol*. Cases of freight transport companies cancelling a contract with an owner-operator due to union activity or forcing drivers into giving up their membership in *TruckSol* are frequent.

To sum up, *TruckSol* utilised its structural power resource by disrupting the logistics of export goods, which was critical to the Korean economy, thereby successfully mobilising owner-operators and achieving agreements with the government as well as companies. Nevertheless, the union failed to achieve institutional power, as the government and freight transport companies insisted on rejecting collective labour rights for owner-operators, and this undermined the union's power resources.

² For example, the *Trucking Transport Business Act* was amended in order to allow a road haulier to perform carriage, using his or her own vehicles, at least at the ratio prescribed by the Ordinance of the Ministry of Land, Infrastructure and Transport. It is aimed at restraining road hauliers from contracting out the entire carriage, and at limiting cascade subcontracting.

³ In December 2006, the KCTWF was integrated into a larger industrial union – the Korean Transport Workers' Unions (KTWU) – together with railway, taxi and bus workers' unions. After that, *TruckSol* became one of branches of the KTWU.

3

GOAL-SETTING AND STRATEGY

3.1 TECHNOLOGICAL CHANGES

Recent technological advancement has also had a negative effect on union power resources. In response to mobilisation of owner-operators, the government has promoted mechanisation and automation of ports, and it has become more and more difficult for unionised truckers to block carriage in the docks during a period of industrial action. This has resulted in shrinking structural power on the part of container truck drivers, who were the most active members of *TruckSol*.

Furthermore, changes in lifestyle and the development of e-commerce have brought about an expansion of new sectors such as door-to-door delivery services, presenting the union with challenges as well as opportunities. Traffic volumes of packages by parcel delivery services and their sales have increased about three-fold over the past 10 years (Korea Transport Database 2017). While container trucks numbered 54,758 in 2017, the number of parcel delivery trucks has doubled to approximately 47,000 in the past 10 years (Jeong H.-J. et al. 2017). This emerging sector has scarcely begun to be organised into trade unions.

Rapidly emerging sectors such as parcel delivery services and food and grocery logistics have been organised along different lines than the container delivery sector. On one hand, dominant retailer consignors have enough influence to set rates as well as other key parameters for transport work, such as the time taken to deliver goods. New methods of control over performance via digital technology – for instance, GPS and devices monitoring location and operation time of truck drivers – have also developed. This is translating into increasing pressure on the performance of truck drivers, who have to work for longer hours and engage in hazardous work practices like increasing speed in order to meet delivery timetables as well as freight rates.

Moreover, freight transport buyers have utilised various labour intermediaries in order to hire a stable just-in-time workforce. Some intermediaries are being transformed into ›labour platforms‹ by using APPs and Internet-based service. Transport buyers and intermediaries can much more easily contract out freight carriage just in time to individual owner-operators. It intensifies workers' competition for getting the freight carriage, once again worsening working condi-

tions. A survey result conducted by *TruckSol* shows that 75 percent of union members use APP-based intermediaries to receive freight carriage (*TruckSol* 2018). Our survey results regarding working conditions of truckers who received freights via a labour platform also revealed poor working conditions. According to these results, average daily working hours were 13.7 and drivers usually work 6.1 days a week. Such intermediaries make the logistics chain more complex, and lead to further cuts in freight rates.

The use of digital technology has also changed the way the labour force is used. For example, Coupang (Korea's biggest e-commerce firm) uses over 4,000 non-professional delivery workers on a daily basis in order to meet demand for ›same-day delivery service‹. These workers use their own vehicles like Uber drivers and compete for getting the carriage on one-day contract via APPs. Delivery fees are decided by Coupang on a daily basis, and have decreased due to increasing competition among workers. These workers are excluded from labour protection, as they are regarded as ›independent contractors‹ or even ›not a worker‹, who simply make pocket money in their free time.

These changes in logistics trends and in the labour market have led to shrinking structural (marketplace bargaining) power, as there is more competition from non-professional drivers. Also, associational power resources of *TruckSol* has shrunk, as union membership has mainly been concentrated on professional truck drivers, particularly container truckers, in the export and import goods transport sector. This is reflected in stagnant union membership, which has been hovering at around 12,000 to 16,000 members for the past 10 years.

On the other hand, freight transport workers potentially have more bargaining power. For example, big retailers now collect data at the point of sale and transmit it up the supply chain to tell producers what to produce at very short notice. If freight such as food and grocery needs to be delivered just in time, unionised truck drivers could have bargaining power by stopping delivery. As such, the increasing time sensitivity of supply chains makes transport buyers more vulnerable to disruption – that is, collective action by transport workers who thus wield structural (workplace bargaining) power.

3.2 DEMAND FOR THE STANDARD RATES

As explained in the previous section, commercial pressures passed down through multi-layered subcontracting in the road freight transport sector can lead to reductions in truck driver pay. In particular, owner-operators are the most vulnerable, as they often must absorb the costs of ownership, maintenance and other vehicle operating costs, while they may not be entitled to collective labour rights and may not benefit from labour protection, including social insurance, provided to other workers.

According to the results of a survey conducted by the Korea Transport Institute, for example, a shipper (transport buyer) first of all paid 1,230,000 Korean Won (approximately USD 1,000) to a big transport company for a 40-foot container carriage between Busan and Seoul. The rates paid to an owner-operator at the bottom of the supply chain dropped to 780,000 Korean Won (approximately USD 668) through cascade subcontracting, as of 2011 (Korea Transport Institute 2011).

To raise owner-operators' share, *TruckSol* has attempted to bargain collectively with upper-level transport companies and/or dominant transport buyers over the years. Such attempts have focused on building a collective bargaining frame top-down to the local level. At the top level, for example, the head office of *TruckSol* has negotiated with the government on industrial policy such as regulating illicit subcontracting practices. Under pressure of industrial action by *TruckSol*, the government encouraged transport companies' associations to negotiate with *TruckSol* over standard rates. At the local level, local units of *TruckSol* have bargained collectively with local freight companies and/or dominant transport buyers with regard to actual rates, job security and respect for trade union activities.

This collective bargaining strategy is only effective if *TruckSol* can engage in collective action on a scale where union members effectively disturb logistics. So *TruckSol* has organised nationwide collective action every few years. However, such collective action cost the union in many ways: many union members lost their jobs and were even penalised, as collective action by owner-operators was not protected by labour law. Moreover, collective bargaining only took place temporarily during the period of industrial action. Once collective action ended, transport companies and transport buyers did not honour agreements, and the agreed rates were cut once again.

To overcome the limits of separate negotiations, *TruckSol* demanded an introduction of ›standard rates‹. The union argued that it was necessary to fix standard freight rates in order to contain rates cuts along the supply chain. ›Standard rates‹ became the main demand of *TruckSol* since the general strike of 2006.

In 2008, in particular, *TruckSol* successfully organised a general strike, amidst an eruption of mass demonstrations

to protest the newly elected conservative administration.⁴ When the government was driven into a corner, the union's effective mobilisation convinced the government to live up to its pledge of ›standard rates‹. The administration set up a Commission for Promotion of Standards Rates in July 2008, and tested the standard rates in a pilot project from October 2010 to September 2011. After the end of the pilot project, however, the standard rates were not legislated as the government insisted that standard rates should be a guideline rather than statutory rates. Nevertheless, the 2008 strike was once again an attempt by the union to gain institutional power (i.e. introducing standard freight rates along the supply chain).

3.3 SAFE RATES CAMPAIGN

After legislation on the standard rates was put on hold, *TruckSol* developed the ›Safe Rates‹ campaign strategy. The initiative emanated from an international exchange of experience between the union and the Transport Workers' Union of Australia (TWU), which pioneered the Safe Rates campaign and was successful in passing landmark Safe Rates legislation in 2012. *TruckSol* union leaders visited the TWU in December 2013 to learn about the Safe Rates campaign, and from then on, both unions have been collaborating on a global Safe Rates campaign.

In Australia, too, low rates had been paid to transport operators by the major transport buyers such as dominant retailers at the top of the supply chain. These low rates translate into even lower rates of pay for truck drivers. The move to drive down rates, and pressure from supply chain actors for unrealistic route times that demand long hours, puts transport operators and drivers under tremendous pressure, and result in incentives to dangerous work practices such as speed, overloaded trucks, neglect of vehicle maintenance and driving while fatigued (ITF 2014).

The TWU achieved the enactment of the *Road Safety Remuneration Act* in 2012 (RSR Act). this was part of the TWU's Safe Rates campaign that was carried on for more than 20 years, aiming to hold supply chain actors accountable for safety along the entire transport supply chain. The RSR Act created a legislative method to consider remuneration and related conditions for all road transport drivers by establishing the Road Safety Remuneration Tribunal to set minimum rates of pay for employees and owner-operators through road safety remuneration orders.

⁴ Following the Korea-US Free Trade Agreement signed in 2007, the newly elected Myeong-Bak Lee Administration permitted US beef imports. In the spring of 2008 several large protests in Seoul ignited over the Korean government importing beef from the United States, where it was reported that cases of Mad Cow Disease had been discovered. By the summer of 2008, millions of Korean citizens were taking part in candlelight protests and demanding a ban on U.S. beef import and re-negotiation on the FTA. *TruckSol* declared that union members would refuse to transport imported U.S. beef in support of the candlelight protests, and at the same time called a general strike demanding an introduction of standard rates in June 2008.

A »Safe Rates« model involves the imposition of mandatory enforceable legal obligations on all business firms operating throughout road transport supply chains. These obligations apply to all businesses from the level of consignors (and consignees) down through the supply chains to the level of road transport businesses (such as trucking companies) which directly hire the services of road transport drivers (Nossar and Amoresano 2019: 2).

It is noteworthy that the TWU has combined organising activities, political lobbying and media strategies and community support, which has been termed »Comprehensive Campaigning« (Kaine and Rawling 2011). Specifically, the TWU's initial focus is on one of Australia's giants, Coles, where the union is seeking a charter agreement to raise standards and strengthen union organising rights along the entire transport supply chain. To put pressure on Coles to negotiate a charter, the TWU and its delegates have carried out dozens of campaigns in and around Coles stores in every state and territory of Australia, brought delegations of truckers and crash victims to speak out at company AGMs, and joined community groups in opposing flawed store expansion plans where truck driver safety was at stake. The years of campaigning have led some retailers such as Woolworths to begin negotiating with the TWU over such a charter – both to avoid the kind of campaign waged against Coles and to reduce their liability for road safety. In May 2018, the TWU and Coles signed an MOU on Principles to Ensure Safety & Fairness for Transport Workers in the Coles Supply Chain.

Inspired by the Safe Rates campaign of the TWU, TruckSol has developed comprehensive campaigning for legislation on Safe Rates since 2013. First, the union has further developed and refined the message linking rates of pay to the safety of drivers and the general public. It re-framed its major demand to »Safety for People! Rights for Road Transport Workers!« TruckSol reviewed evidence showing that multi-layered subcontracting systems result in low rates of pay and cause unsafe practices such as long driving hours, driving at night, driving when fatigued and overloading. It held an international symposium at National Assembly House in 2015 to present global Safe Rates campaigns and their implications for Korea. Leading delegates have spoken to the media and at public events about poor working conditions of owner-operators and the root causes of unsafe practices in the road transport sector. In 2016, TruckSol called a general strike again, demanding legislation on Safe Rates.

Second, the campaign pursued legislation on Safe Rates, aiming at strengthening trade union involvement in decisions on, and enforcement of, rates. In particular, *TruckSol* demanded that Safe Rates should be paid to actual transport operators at the bottom of the supply chain – that is, owner-operators. It furthermore argued that regulatory mechanisms should be established to decide on and enforce the minimum rates that ensure proper payment for personal labour, remuneration for both driving and subsidiary

non-driving work activities and recovery of costs for truck drivers.

Third, TruckSol has sought to hold economically powerful industrial clients (»economic employers«) at the top of the supply chain, who set rates and conditions, accountable for working conditions along their entire supply chain. Specifically, the union has targeted big logistics subsidiaries such as Hyundai Globis of Hyundai Motors which is highly sensitive to just-in-time logistics. In 2014, the union set up a Strategic Organising Committee to organise transport workers across individual transport companies along the supply chain. The goal was to conclude framework agreements with transport buyers and/or the principal transport company, to raise rates and strengthen union organisation rights along the whole supply chain.

3.4 RESULTS: GAINING INSTITUTIONAL POWER

After more than a decade of campaigning, TruckSol achieved new legislation on Safe Rates in March 2017. In particular, the union took advantage of a change in government administration following mass protests calling for the impeachment of President Park Geun-hye. Through member lobbying of National Assembly members, collective action and rallies for Safe Rates legislation, the union was able to win the necessary support to amend the Trucking Transport Business Act (TTB Act). This outcome of the union's sustained campaign, accompanied by collective actions, gained institutional power for the union (i.e. the TTB Act).

Under the amended TTB Act, since 1 January 2020 statutory minimum rates are to be paid to all relevant road transport drivers even though these drivers are not employees of transport operators. Such minimum rates are being decided by the Road Safety Freight Rates Committee (RSRC) with reference to a model which calculates cost recovery for fixed and variable costs, and which also includes calculations for return on driver investment (in the vehicle) and adequate driver income (TTB Act, Art. 5-3).

The RSRC is composed of members who represent owner-operators (three members), members who represent road hauliers (three members), members who represent transport buyers (three members) and members who represent the public interest (four members) (TTB Act, Art. 5-2). Currently, delegates of *TruckSol* take part in the RSRC as members who represent owner-operators.

This Korean Safe Rates regulatory system features mandated legal regulation of contract structuring by both relevant intermediaries and transport buyers, whereby »rates set in (road transport services) contracts at amounts that fall short of the (mandated) Safe Rates are declared null and void and will be understood to mean the payment of rates equivalent to the Safe Rates« (TTB Act, Art. 5-5).

The Safe Rates provisions under the TTB Act are initially in the trial applied to »export-import container« transport and the transportation of »cement«, and as the Sunset Clause, they are set to terminate at the end of 2022. Nevertheless, *TruckSol* has engaged in political and social debates for extending such regulation. Just after the enactment of Safe Rates in 2020, fourteen road hauliers and thirteen container shipping companies filed a lawsuit against Safe Rates regulations, arguing that they suffer enormous losses due to the enactment of Safe Rates. Against this backlash, *TruckSol* has launched a new signature-collecting campaign and staged a rally for effective enforcement of Safe Rates and abolition of the Sunset Clause.

4

SUCCESS FACTORS AND LESSONS LEARNED

4.1 BUILDING A COLLECTIVE IDENTITY

The process of the unionisation of owner-operators should be understood in the context of the entire labour movement for precarious workers' rights in Korea since the late 1990s. The 1997 economic crisis and legalisation of the Korean Confederation of Trade Unions (KCTU) in 1999 encouraged precarious workers to join the democratic trade union movement. In particular, it is a voluntary struggle and sacrifice that characterises unionisation of precarious workers in Korea. One fight to secure labour rights has followed another, and this has played a key role in establishing precarious workers' unions. For example, a nation-wide strike by the Korean Construction Transportation Workers' Union, which organised remicon (ready-mixed concrete) truck drivers in 2001, had an impact on the establishment of *TruckSol* in 2002. The demand by *TruckSol* was followed by unionisation of dump truck drivers in the construction industry in 2004.

Owner-operators had suffered from inhuman treatment as well as poor economic conditions. In fact, they had to put up with such abuses due to their economic dependence on freight transport companies. However, these undemocratic and unfair relations between drivers and companies have changed little by little through unionisation. From the first strike in May 2003, this orientation has evolved into the following slogan: ›Stop the logistics! Change this world!‹ This shows that owner-operators have begun to see themselves as active ›workers‹ capable of changing the distorted and unfair structure of the road transport sector.

The KCTWF has made an effort to build self-awareness among owner-operators as members of the working class and to integrate their fight into a broader labour movement. It has created educational programmes via various channels such as a tape-recording or TRS (trunked radio system) communication, so that owner-operators can easily tune in while driving a truck.

This organising process constitutes a strengthening of associational power. It is, first and foremost, important to build collective identity as active ›workers‹. When owner-operators regard themselves as ›self-employed‹, they are absorbed with competing against each other to receive the freight carriage at the risk of engaging in hazardous work-

ing practices. The fact that their incomes are determined by the results of their work strengthens this individualistic identity. However, those conditions and characteristics can often be found among other employees as well. Nowadays, for example, individualisation of performance of work and the wage system based on the results of work are spreading even to ›standard employment relationships‹ as well as characterising the emergence of ›platform work‹.

Taking remuneration out of the competition equation by collectively bargaining or collectively setting of rates could be the first step to overcoming this individualistic orientation. This requires clear objectives and cohesion with regard to the organisation of precarious workers such as owner-operators.

4.2 INTERNAL TRANSFORMATION BY BUILDING CAPABILITIES

Learning and intermediation

While the concept of power resources relates to various dimensions of trade union power, the extent to which unions may utilise any or all of these resources will depend on whether they can develop their capability to recognise and use power resources strategically. According to Lévesque and Murray (2010), of particular significance for the mobilisation of union power resources are strategic capabilities revolving around intermediating, framing, articulating and learning.

TruckSol has made an effort to articulate demands of owner-operators in line with the broader labour movement. For instance, its initial demand for a reduction in the minimum number of trucks eligible for trucking transport business licenses has been changed from five to one. Until 2003, owner-operators had to belong to a company with a trucking transport business license and pay a monthly fee to engage in freight hauls. In most cases these companies, usually called ›registration companies‹, did nothing but collect fees from members and did not give jobs to drivers. As explained above, owner-operators got jobs from subcontractors of big freight transport companies or intermediaries. Thus, owner-operators wanted to put an end to this unreasonable practice and demanded abolition of a minimum number of trucks to be eligible for a transport business license. This

demand was accepted by the government in the first agreement concluded in May 2003, but soon *TruckSol* retracted this demand just after the first strike in 2003. The reason was that, following internal discussions, owner-operators realised that this kind of demand for deregulation was inconsistent with trade union policy. Moreover, this sounded like the genuine voice of self-employed persons calling for free access to the market. Instead, *TruckSol* has since then addressed multi-layered subcontracting practices, and elaborated a demand for Safe Rates, as described in the previous sections.

This change in demands has resulted from organisational learning and internal discussions. The union attempted to reflect on different ways in which individual members define their interests. Recognising conflicts of interest and individualistic orientations, and finding common ground for policy relates to intermediating capabilities. The union also tried to make the link between pay and safety, exposing the fact that the pressure to pay ever-lower rates leads to hazardous working practices, threatening not only the well-being of truckers, but the safety of all road users. Framing demands in a broader context of industrial structure and societal problem could be helpful in strengthening societal power as well.

The cooperation between *TruckSol* and Transport Workers' Union of Australia (TWU), as discussed earlier and in more detail in section 4.3, is another form of organisational learning that has strengthened the former's Safe Rates campaign.

Articulation

In order to cope with weakening structural and associational power, *TruckSol* has reorganised its priorities and internal resources with which to engage in comprehensive campaigning. In particular, it has enhanced the internal education programme, in order to not only increase rates in the short run, but also give members more opportunity to understand and participate in the campaign addressing broader problems in the industry. *TruckSol* also formed a special task force, dubbed the »Future Strategy Commission«, in March 2018, and encouraged the union's shop floor leaders and external experts to participate in it. The Commission has conducted a survey on working conditions of union members, and evaluated past union policy and strategy. Following this, the Commission held union conferences locally to discuss the union's future strategy. In August 2019, *TruckSol* held a union's delegate conference and adopted the final report of the Commission, which proposed a re-allocation of internal resources in line with the future strategy. The strategy involves union members in the political, public and regulatory aspects of the campaign, and even more importantly members being trained to organise across individual companies, with the goal of unionising the entire supply chain. Through years of effort to organise owner-operators working for the dominant transport buyers, the union has achieved an increase in membership, in particular, along supply chains of food and automobile parts.

TruckSol has attempted to reformulate its priorities and to step up its members' involvement with the organisational goal. This also involves framing capability, i.e. developing a discourse and formulating (new) strategies by defining a proactive and autonomous agenda within a larger context (Lévesque and Murray 2010).

4.3 CROSS-BORDER SOLIDARITY

TruckSol has also been strengthening international solidarity with the Transport Workers' Union of Australia (TWU) since 2013. Both unions have collaborated in communicating the Safe Rates global campaign to the International Transport Workers' Federation (ITF) and the ILO. At the 2018 ITF Congress, the TWU and *TruckSol* forwarded a motion calling on the ITF and its unions to strengthen the global campaign for safe rates of pay for road transport workers, and the motion was passed.

This international solidarity led to the adoption of »Guidelines on the promotion of decent work and road safety in the transport sector' in September 2019 by the ILO, as was called for in the resolution concerning best practices in road transport safety adopted by the 2015 Tripartite Sectoral Meeting on Safety and Health in the Road Transport Sector. The draft guidelines state that »multiple supply and contracting chains« in the road transport industry »often lead to pressures on margins that can leave transport workers unable to exercise their fundamental principles and rights at work«. It recommends two main functions of »Safe Rates« systems; to implement minimum standards for all transport operators and drivers, including minimum rates and cost recovery, and transparency and accountability throughout supply chains to ensure those reaping the profits at the head of supply chains and new economy contract networks are held accountable for standards to ensure work is performed safely and sustainably.

4.4 POTENTIAL FOR ORGANISING »NEW« PRECARIOUS WORKERS

TruckSol has also increased membership among truckers, many of whom get jobs via labour platforms. From the beginning, the demand for Safe Rates has related to an organising strategy. Precarious workers such as platform workers usually compete with each other to get jobs, leading to a race to the bottom. The Safe Rates campaign seeks to take remuneration out of competition. In addition, the union has attempted to hold all supply chain actors including transport buyers and labour platforms accountable for workers' rights. Furthermore, attempts to reach platform workers such as parcel delivery service workers could contribute to improving gender relations. The trucking sector has traditionally been a male-dominated industry and *TruckSol* also has few female union members. As more and more women get delivery jobs via labour platform using their own vehicles, however, the union will be faced with gender-related issues

such as protecting workers from gender-based violence and harassment.

On the other hand, APP-based food delivery workers have organised trade unions and also demanded that the Safe Rates regulation be extended to platform workers in May 2018, inspired by Safe Rates campaigning. These unions have demanded that all workers should be guaranteed minimum pay, regardless of employment status. In particular, during the COVID-19 pandemic crisis, *TruckSol* and the Rider Union that organises APP-based food-delivery workers have staged a joint campaign to hold transport buyers liable for providing safety equipment to workers.

This case shows that the most vulnerable workers could be organised and maximise their power resources. It also shows that union power resources need to be constantly reshuffled, as industrial changes take place rapidly. In order to cope with weakening power, the union needs to reorganise its priorities and internal resources.

Self-employed workers including newly emerging platform workers should be equally protected by labour law and social security. However, to effectively protect these, we need to answer the question as to how to make hidden employers be held accountable for decent work and deficits when it comes to transforming the world of work.

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SAFETY FOR THE PUBLIC, RIGHTS FOR THE DRIVER

South Korea's transport workers campaign for safe rates



Korean truck drivers have been pushed by deregulation policies to become self-employed workers, with no rights and protection. Relying on labour intermediaries to get the jobs, their working conditions have been precarious and characterized by a race to the bottom. With the increasing use of digital technology in the form of apps used by those intermediaries, the pressure, time sensitivity, and surveillance have increased while payment rates have further eroded in the Korean transport sector.



Despite the constraints of the sector's economic structure, truck drivers have built an identity of workers and organized into a union. Using their structural power to disrupt the logistics chain, they have led a strike that aimed at improved government regulation. Transnational learning has enabled the *TruckSol* Union to lead the »safe rates« campaign, aiming to take remuneration out of the competition. Framing their objectives around the issue of safety for the wider public and mobilizing members and the community, industry standards have now been set.



Now is the time to achieve similar institutional rights for parcel and food delivery drivers who serve digital platform companies. Here, building an identity of workers, organizing and collective action as well as framing workers' interests to be in the public interest will be essential steps to repeat the success and extract accountability from their real employers.

For further information on this topic:
<https://www.fes.de/lnk/transform>