

Proposal of paper for the GLU Conference 2009

* **Author : AELIM YUN (Korean Solidarity against Precarious Work)**

Email: aelimyun@hotmail.com

Tel : +82 (0)10 6656 5828

Address : PRUGIO 103-1106, Shindorimdong 337, Gurogu, Seoul, Korea (152-887)

Ph.D. in Labour Law & Social Security Law

2003 – 2004 Research Advisor, Korean Cargo Transport Workers Federation (KCTWF)

2004 – 2005 Trade Union Advisor, Precarious Workers' Branch of Korean Financial Industry Union (KFIU)

2006. 3 – 2006. 8 Visiting Scholar at the International Institute for Labour Studies of the ILO

2006. 9 – 2007. 2 Visiting Scholar at the Wirtschafts- und Sozialwissenschaftliche Institut (WSI)

2007. 2 – 2007.12 Visiting Researcher at the European Trade Union Institute (ETUI-REHS)

2001 – Present Research Coordinator, Korean Solidarity against Precarious Work (KSPW)

2004 – Present Research Coordinator, Korean Committee of Precarious Workers Unions (KCPWU)

2008 – Present Advisory Committee member, National Human Rights Commission of Korea

I. Background of the problem

- For recent decades, types of employment relationship have been diversified and more and more enterprises have used workforce in other contractual forms than employment contracts. These changes in world of work are associated with globalization, technological change and transformations in the organization of enterprises, often combined with restructuring in a highly competitive environment. For example, many enterprises try to concentrate on the 'core' business such as planning, designing and marketing and contract out the 'peripheral' business which is often related to production or manufacturing.
- Under the intensified competition in a global economy, enterprises seek for cost-reduction as well as flexibility. It is important for enterprises to adjust production depending on market demand and business fluctuations. Contracting-out or outsourcing is the most often used way for transferring risk and cost to subcontractors and subcontracted workers. On the other hand, this strategy has a huge impact on the employment relation which is a platform for labour protection and industrial relations. More and more workers exist outside of the traditional employment relationship, while working as independent contractors or being employed in a triangular employment relationship. In many countries, the problem concerning who is employer or who is responsible for workers' rights becomes a crucial question for labour laws and collective agreements.
- The change in work organization is a big challenge to the trade unions all over the world. The majority

of workers are neither organized nor protected by trade unions. Among various forms of precarious employment, triangular employment relationship and the economically dependent work give rise to many questions around the effectiveness of collective agreement and union representativeness among working class. For instance, economically dependent workers have been classified into the self-employed and have not been protected by labour laws and collective agreements. Also, many trade unions have understood that this type of worker would not be interested in trade unions or would seek the economic achievement as the self-employed, and thus have been reluctant to organize them.

II. Main ideas

- My research questions are as follow. First, I will address a question about how to interpret the 'dependence' of the new type of workers. This has often referred to 'economic dependence' which could be a basis to extend social protections, while it does not amount to 'legal subordination' which defines dependent employment relationships in many countries. In contrast to that traditional understanding, I will argue that this type of economic dependence results from the strategy of 'externalization of labour', that is, the shift of costs and risks from capital to labour. User-enterprises can use workers very flexibly and transfer market risks to them by free hire and dismissal. Also, user-enterprises can evade legal and fiscal responsibilities for workers' rights, and shift costs of business onto workers. As regards traditional employment relationships, workers could be protected by labour laws in return for their subordination to an employer. In the case of economically dependent workers, they are dependent on a user-enterprise, and employers could control them to the similar extent of a subordinate employment. In this respect, it is closer to the reality understanding economic dependence as the 'externalized or alienated subordination' rather than as 'quasi-subordination'.
- Second, my argument will focus on the dimension of organizing common interest and forming collective identity of economically dependent workers. The organization form of economically dependent workers could be either trade unions or business associations. As regards organizing strategies, my paper will address some questions: What leads economically dependent workers to trade unions? How do trade unions organize collective interest and identity of economically dependent workers with a view to enlarging fundamental labour rights? What strategy is needed in order to tackle the changing form of subordination or dependence in the world of work?
- Third, I will analyze the gap between changing pattern of work and legal interpretation of an employment relationship and propose the alternative approach. From my viewpoint, the economically dependent work is understood as one of employments established below normative standards, which results from an unbalanced distribution towards and among workers of the insecurity and risks typically attached to the labour market. In order to improve legal regulations, labour market institutions and social protection coverage to secure that all workers can effectively exercise their basic rights, Korean trade unions have called for an adjustment of the terms 'employee' and 'employer' in labour laws with a view to reflecting changes in the world of work and securing

collective labour rights regardless of employment status.

- I will argue those questions with a case of 'independent driver' in Korean road freight transport industry. Most truck drivers are independent workers or economically dependent workers. Major freight companies usually consign their freights to subcontractors or 'owner-operators', instead of hiring truck drivers. Since these 'owner-operators' have their own trucks and meet the cost of running expenses, they are treated as 'independent contractors' or 'self-employed'. In reality, however, they are subordinate to the control of particular freight companies or goods-holders, and they drive the trucks by themselves without employing others.
- In 2002, independent truck drivers formed a trade union (*Hwamulyundai*), which affiliated to the Korean Cargo Transport Workers Federation (KCTWF). After the successful first strike in 2003, the *Hwamulyundai* and the Government reached an agreement which included subsidizing the oil tax, regulating multi-layered subcontracting, protecting independent drivers by Industrial Accident Compensation Insurance and respecting their collective labour rights. As the Government has been reluctant to fulfil this agreement, the *Hwamulyundai* has been organizing nation-wide strikes and collective actions every year in order to make progress in agreements. The *Hwamulyundai* succeeded in organizing independent drivers as it represented their general discontent with this risk-and-insecurity transfer chain. At the same time, the *Hwamulyundai* has tried to recall the companies to the position of employers and to make the employer-party in collective bargaining through political struggle. This could make the companies, which acted behind multi-layered subcontracting and economically dependent work, be visualized as employers.

III. Methodology

- I combine exploratory participant observation and statistical data analysis with theoretical exploration. In order to give an overview of precarious employment including economically dependent workers in Korea, I analyze the data of the Economically Active Population Survey (EAPS) conducted by the National Statistics Office every year. The exploratory field work was carried out in 2004 and 2006. Survey research on independent truck drivers and in-depth interviews with union members among them were conducted in cooperation with Korean Cargo Transport Workers Federation (KCTWF).
- Based on those data, my paper starts with an overview of industrial structure and employment conditions in road freight transport industry, and continues with what has given rise to an increase of economically dependent workers. Thereafter, I describe a unionization of independent truck drivers as well as other precarious workers by organizing campaigns conducted by Korean trade unions with various social movement groups. I examine what has led independent drivers to a trade union, and how the perspective and strategy of the existing trade unions have played a role in organizing independent drivers. Finally, I review the attitude and strategy of employers and the Government in response to the unionization of independent drivers, and explain how those strategies compete or conflict with trade union strategy.