

OPEN ACCESS

ISSN 2280-4056

*E-Journal of
International and Comparative*

LABOUR STUDIES

Volume 5, No. 3 September-October 2016



ADAPT
www.adapt.it
UNIVERSITY PRESS

ADAPT *International School of Higher Education in Labour and Industrial Relations*

Scientific Directors

Lauren Appelbaum (USA), Greg Bamber (Australia), Stuart M. Basefsky, (United States), Daria V. Chernyaeva (Russia), Richard Croucher (United Kingdom), Maurizio del Conte (Italy), Tomas Davulis (Lithuania), Tayo Fashoyin (Nigeria), József Hajdu (Hungary), Ann Hodges (USA), Richard Hyman (United Kingdom), Maarten Keune (The Netherlands), Chris Leggett (Australia), Guglielmo Meardi, (United Kingdom), Shinya Ouchi (Japan), Massimo Pilati (Italy), Valeria Pulignano (Belgium), Michael Quinlan (Australia), Juan Raso Delgue (Uruguay), Raúl G. Saco Barrios (Peru), Alfredo Sánchez Castaneda (Mexico), Malcolm Sargeant (United Kingdom), Jean-Michel Servais (Belgium), Silvia Spattini (Italy), Michele Tiraboschi (Italy), Anil Verma (Canada), Stephen A. Woodbury (USA)

Joint Managing Editors

Malcolm Sargeant (Middlesex University, United Kingdom)
Michele Tiraboschi (University of Modena and Reggio Emilia, Italy)

Editorial Board

Lilli Casano (Italy), Francesca Fazio (Italy), Emanuele Ferragina (United Kingdom), Antonio Firinu (Italy), Valentina Franca (Slovenia), Maria Giovannone (Italy), Erica Howard (United Kingdom), Karl Koch (United Kingdom), Lefteris Kretsos (United Kingdom), Attila Kun (Hungary), Felicity Lamm (New Zealand), Cristina Lincaru (Romania), Nikita Lyutov (Russia), Merle Muda (Estonia), Boaz Munga (Kenya), John Opute (UK), Eleonora Peliza (Argentina), Daiva Petrylaite (Lithuania), Ceciel Rayer (The Netherlands), Aidan Regan (Ireland), Marian Rizov (United Kingdom), Salma Slama (Tunisia), Francesca Sperotti (Italy), Araya Mesele Welemariam (Ethiopia), Barbara Winkler (Austria), Machilu Zimba (South Africa)

Language Editor

Pietro Manzella (ADAPT Senior Research Fellow)

Book Review Editor

Chris Leggett (James Cook University, Australia)

*E-Journal of
International and Comparative*

LABOUR STUDIES

Volume 5, No. 3 September-October 2016

@ 2016 ADAPT University Press

Online Publication of the ADAPT Series
Registration No. 1609, 11 November 2001, Court of Modena
www.adaptbulletin.eu

The articles and the documents published in the *E-Journal of International and Comparative LABOUR STUDIES* are not copyrighted. The only requirement to make use of them is to cite their source, which should contain the following wording: **@2016 ADAPT University Press.**

Precarious Work in Drayage Trucking and Labor Action to Restore Labor Rights

David Bensman *

Abstract. Port truckers pick up and deliver containers at seaports. In the United States, since trucking deregulation in 1981, they have been working as independent contractors for mostly small trucking firms. These companies contract with shippers to deliver containers. They firms are small and usually possess few physical assets. They contract with port truckers, who own or lease their own trucks, to haul containers on a per load basis. All the expenses and risks associated with hauling freight are borne by the independent contractors. Under U.S. law, these truckers are not allowed to engage in collective action, and lack access to labor rights and many forms of social insurance. The drivers earn small fees for carrying each container, and because they encounter many delays at ports, on highways, and at warehouse, they are usually unable to make more than three deliveries per day. As a result, their net earnings are low and their work hours are long. The International Brotherhood of Teamsters has been organizing these drivers for more than a decade; in recent years, they have won regulatory and judicial decisions ruling that the truckers are misclassified as independent contractors when they are actually working as employees under relevant employment laws. The union campaign has formed alliances with environmental justice groups concerned with diesel pollution, and has mobilized political support for reclassifying drivers as employees entitled to legal protection and social insurance, as well as eligible to participate in collective action. The battle remains unresolved.

Keywords: *Precarious employment, Independent Contractors, Misclassification, Union organizing.*

* Rutgers University, School of Management and Labor Relations. Email address: dbensman@smlr.rutgers.edu

Introduction

In the retail-dominated, or buyer-driven, commodity chain, consumer goods move in large containers. Containers are unloaded from ships at port container terminals. Then they are transferred to another transport mode for movement off the terminal. The most common mode is short-haul trucking, known as “drayage,” which entails hauling containers on trailer chassis by diesel-powered truck cabs. Drayage is an essential link in the movement of goods from the terminal to the Warehouse/Distribution Center (W/DC). The industry is characterized by small logistics and trucking firms which compete for contracts with shippers. Drivers may be employees, but more commonly are “owner-operators,” often called “independent contractors.”

Port truckers represent a significant segment of the logistics labor force. The best study of the working conditions of truck drivers is Belzer’s *Sweatshop On Wheels*, a story of the decline in labor market conditions as trucking changes from a protected and regulated, to an unprotected and deregulated, industry with the passage of The Motor Carrier Act of 1980¹ Prior to deregulation, licensing requirements enforced by the Interstate Commerce Commission restricted the number of firms and trucks, thereby stabilizing prices and, with Teamster representation of drivers, providing truckers with attractive compensation and benefits. Rising wages and operating expenses were passed in higher shipping costs. Deregulation was accomplished in 1980 on a nonpartisan basis, as liberals led by Sen. Edward Kennedy called for an end to corporate monopolies, conservatives advocated market competition, and African-Americans protested their exclusion from well-paying jobs. The Motor Carrier Act altered the landscape, allowing the entry of low-cost, non-union firms. The resulting drop in the price of freight transport made the rapid expansion of offshoring and global trade possible, but it had a devastating effect on port truckers. The increasing number of players depressed compensation and union representation.²

Prince describes the trucking labor force as internally stratified. “At the bottom of the pyramid are owner-operators hauling international

¹ Michael Belzer, *Sweatshops on Wheels*, Dale Belman and Kristen Monaco, “The effects of deregulation, deunionization, technology and human capital on the work and work lives of truck drivers,” David Bensman, “Port Trucking Down the Low Road,” and J. Peoples and W. K. Talley, “Owner Operator Truck Drivers Earnings and Employment.”

² Belzer, “Collective Bargaining after Deregulation: Do the Teamsters still count?”

containers – the fastest growing segment of intermodal traffic.³ Bonacich adds, “Of all the global trade related logistics workers, port truckers are the most oppressed.”⁴

The “independent contractor” arrangement represents the outsourcing model used in drayage trucking.⁵ Trucking firms -- rather than owning trucks and hiring workers as employees -- contract with drivers who own or lease their vehicles. At the largest ports, Los Angeles and Long Beach, 86% of the drivers are owner operators.⁶ These drivers work for, but are not officially employed by, one and only one trucking company, and they are paid by the trip, rather than the hour. Contracting with owner-operators frees trucking companies from any obligations they would incur as employers, including social security taxes, unemployment compensation, workers’ compensation, health benefits, pensions, and compliance with occupational health and safety and non-discrimination statutes. This “independent contractor” model, while vulnerable to legal challenges, serves to enhance the trucking firms’ flexibility.

Further, and quite significantly, as an “independent business,” the owner operator is prohibited from joining with other owner-operators to act collectively to improve wages and working conditions through a union or a business association. Doing so, it is generally believed, would violate federal anti-trust laws.⁷

Though the truck companies categorize these drivers as “independent contractors” when they file 1099 forms with the Internal Revenue Service, the owner-operators are essentially “dependent” contractors who are not allowed to work for more than one trucking firm, receive no employee benefits, are compensated by the trip rather than the hour, and absorb all costs associated with the operation of their vehicles as well as with the inefficiency of the system. The latter includes routine but costly delays and bottlenecks (including terminal security clearance, dependence on terminal operations to locate containers, process paperwork, or provide roadworthy chassis, and traffic congestion). For owner-operators, who are paid by the trip, wait time is one of the most significant factors impacting compensation, contributing to the extended hours of the workday, and

³ T. Prince, “Endangered species: Economic instability threatens drayage operators and their customers.”

⁴ E. Bonacich, “Pulling the plug: Labor and the global supply,” p. 46.

⁵ Bensman, “Port trucking down the low road;” Bensman, “Misclassification: Workers in the borderland.”

⁶ K. Monaco and L. Grobar, A study of drayage at the ports of Los Angeles and Long Beach.

⁷ See Paul on the ambiguities of anti-trust liability for worker collective action.

generating health-draining levels of stress.⁸ Nevertheless, port truckers, like many immigrant contract workers, value their status as small businessmen at the same time that they bemoan their long hours, low earnings, and difficult working conditions. According to a survey of port truckers conducted at the New Jersey seaports in 2008, a majority expressed a desire to join a union at the same time that they expressed their desire to remain entrepreneurs.⁹

Overall, drayage owner-operators work in a labor market characterized by high turnover, long working days, low earnings, the absence of employer-provided benefits, poor occupational safety outcomes, poor standards and entitlements, and high exposure to injuries, disease and psychological distress. The drivers are responsible for maintenance, repairs, fuel, tire replacement, road taxes, insurance, tolls, traffic fines, radio and/or telephone bills, truck leases and tax preparation.¹⁰

The drivers' dependence on one firm limits the amount of work available to them to cover expenses. In a 2009 study, 98.1% of the owner-operators surveyed in Jacksonville indicated they were "not allowed to work for other firms".¹¹ Other studies reported similar findings. Therefore, truckers are 'misclassified' as independent contractors.¹² While they are strictly regulated by corporate entities to benefit the firms' production and economic advantage, they are considered 'independent owner operators' when it comes to benefits, worker rights, maintenance, and repairs. The misclassification of drivers as conditions for employee classification to their labor market status. As outlined by Smith, Bensman and Marvy, these conditions include "behavioral control", "financial control", and "type of relationship". Behaviorally, the contracting firm determines what containers are moved, when and where, so there is no autonomy or discretion. Financially, the firms set a price for the container move, and drivers have no independent ability to determine their level of compensation. Finally, drivers are only permitted to move containers for one trucking company. These three conditions establish – as is

⁸ On compensation and overwork, see Monaco & Grobar; Bensman & Bromberg; Harrison, Hutson, West, & Wilke; Port Jobs; East Bay Alliance for a Sustainable Economy; Jaffee & Rowley; Smith, Bensman, & Marvy. See also DePillis. For stress, see below.

⁹Bensman and Bromberg; V. Dubai, "Wage Slave or Entrepreneur?" Contesting the Dualism of Legal Worker Identities."

¹⁰ Port Jobs; East Bay Alliance for a Sustainable Economy; Smith, Bensman & Marvy.

¹¹ Jaffee & Rowley.

¹² Bensman, 2014; Smith, Bensman & Marvy; Smith, Marvy & Zerolnick.

demonstrated by repeated rulings by California courts -- an absolute clear-cut case of the drivers' misclassification as "independent contractor". In addition to the economic consequences of the independent contractor arrangement, there are implications for occupational health and safety, an area that deserves greater attention in the study of precarious work.¹³ Trucking is classified as one of the highest risk occupations in the U.S. with Heavy and Tractor-Trailer Truck Drivers having the highest number of work fatalities of any occupation.¹⁴ Nearly 15 million truck drivers are susceptible to occupationally-induced health conditions,¹⁵ including high morbidity and mortality rates associated with: exposures to poor air quality and toxins from prolonged exposure to diesel emissions; insufficient diets, limited availability of nutritional foods available in truck stops and gas stations; injuries from accidents; anxiety and stress from deadlines, scheduling, long work hours, truck repair responsibilities, traffic congestion and safety concerns; being sedentary in truck cabs for long hours at a time; and unpaid wait times at ports, terminals and distribution centers.¹⁶

As owner-operators, the drivers are not provided with health insurance by their employer and thus may lack access to health care. More than two-thirds of port truckers in Houston, Seattle and Jacksonville reported

¹³ A. Williamson, A. P. Bohle, M. Quinlan, & D. Kennedy, "Short trips and long days: Safety and health in short-haul trucking;" M. Quinlan, C. Mayhew, & P. Bohle, "The Global Expansion of Precarious Employment, Work Disorganisation, and Consequences for Occupational Health: A Review of Recent Research;" M. Quinlan & P. Bohle, "Over-Stretched and Unreciprocated Commitment: Reviewing Research on the OHS Effects of Downsizing and Job Insecurity;" E. Tompa, H. Scott-Marshall, R. Dolinschi, S. Trevithick, & S. Bhattacharyya, "Precarious employment experiences and their health consequences: towards a theoretical framework;" W. Lewchuk, M. Clarke, & A. DeWolff, "Working without commitments: The health effects of precarious employment."

¹⁴ Bureau of Labor Statistics.

¹⁵ Y. Apostolopoulos, S. Sönmez, & M. Shattell, M., "Worksite-induced morbidities of truck drivers in the United States."

¹⁶ Williamson, Bohle, Quinlan, & Kennedy; Apostolopoulos, Sonmez & Shattel; A. Hricko, "Ships, trucks, and trains: Effects of goods movement on environmental health;" P.A. Gonzalez, Minkler, M., Garcia, A. P., Gordon, M., Garzón, C., & Palaniappan, M., "Community-based participatory research and policy advocacy to reduce diesel exposure in West Oakland, California."

lacking health insurance.¹⁷ Of the owner operators who had insurance, less than one percent received it from their company.¹⁸

Labor Action in Port Trucking

When the International Brotherhood of Teamsters (IBT) began organizing port truckers in 1998, its challenges were many. First, since most of the drivers worked as “independent contractors,” they were barred from joining a union under existing legal interpretations of the National Labor Relations Act. Furthermore, the industry was fragmented, atomized, and competitive. Cost pressures compelled companies to squeeze their contracted drivers, resulting in a race to the bottom with regard to wages and working conditions, and a high rate of turnover among drivers.¹⁹ Scholars have long regarded drayage as an industry immune to union organization.²⁰ But the organizing landscape is changing as organizers have recognized the growing and strategic importance of logistics for the larger economy. In 2005, a Cornell University conference on global unionism included a panel on organizing in the logistics industry, featuring representatives from the International Transport Workers’ global union federation. In the following two years the Teamsters signed an agreement with the Change to Win Federation to partner in organizing port truckers, and Change to Win unveiled a campaign to organize warehousing.

In the beginning, the Teamsters/Change-to-Win campaign exerted political pressure on port authorities to require trucking companies hauling freight to and from the port to provide emission-compliant vehicles and employee drivers. The latter provision – known as the “employee-mandate” – would, proponents argued, reduce the number of owner-operators, increase the number of employee drivers, provide them with greater economic compensation and security, and make it legal for them to organize a union.

¹⁷ R. Harrison, Hutson, N., West, J. & Wilke, J., “Characteristics of drayage operations at the port of Houston, Texas;” *Port Jobs*; D. Jaffee & Rowley, A., “Hauling containers: Port drayage drivers in the logistics supply chain”.

¹⁸ D. Bensman & Bromberg, Y. “Port truckers survey at New Jersey ports.”

¹⁹ J. Husing, Brightbill, T. & Crosby, T., “San Pedro Bay Ports Clean Air Action Plan: Economic Analysis.”

²⁰ Belzer, 2000; Belman & Monaco.

This campaign was launched in several ports. The Coalition for Clean and Safe Ports -- joining together labor, environmental, environmental justice, community, and faith-based organizations -- established a presence in Long Beach/Los Angeles, Oakland, Portland, Seattle/Tacoma, Miami, and Newark/Elizabeth. It developed most fully in Los Angeles/Long Beach, where the Los Angeles Association for a New Economy, the National Resources Defense Council, the Long Beach Alliance for Children with Asthma and the Southern California Environmental Health Sciences Center proved effective partners. Organizing under the banner of improving air quality and improving public health in port-adjacent communities, the Coalition enlisted the support of local politicians, including L.A. Harbor Commissioner Janice Hahn, who later was elected to the County Board of Supervisors and then to the U.S. Congress, and Los Angeles Mayor Ramon Villaraigosa.

In October, 2008, the Los Angeles Harbor Commission adopted a Clean Trucks Program containing a concession model and an employee mandate. Implementation was halted, however, by a court injunction lawsuit filed by the American Trucking Association. A Federal appeals court struck down the employee-mandate, in 2011, ruling that it was preempted by federal maritime regulations. The ruling meant that the Coalition had to adopt a different strategy. (While the employee mandate died, the Clean Trucks program did succeed in forcing the Southern California drayage industry to replace old trucks with a fleet compliant with 2007 federal emission standards).

The organizing strategy shifted to attacking the basis of the drayage industry's business model, which was the misclassification of its labor force as "independent contractors." This strategy had been rejected at the time the IBT/Change to Win alliance had been constructed, on the grounds that proving misclassification would be time-consuming and expensive, because each lawsuit alleging violation of employment laws would have to be based on the facts discovered at each drayage company. Nevertheless, once it became clear that federal preemption was going to prevail, the campaign shifted to proving that most owner operators were indeed dependent on the drayage companies, not independent businessmen.

The strategy moved on two fronts. Political mobilizing and lobbying pressure achieved success when the California state legislature revised the law defining employment and misclassification on Sept. 8, 2011. According to the California Division of Industrial Relations, the new law "prohibited the willful misclassification of individuals as independent contractors." It created "civil penalties of between \$5000 and \$25,000 per

violation,” and it prohibited charging fees to or making deductions from the compensation paid to those misclassified workers.“ Going further, the law provided that “(w)orkers who do not receive minimum wages, overtime pay, or pay for meals and breaks because their employer misclassifies them as an independent contractor can file a wage claim with the Division of Labor Standards Enforcement.”²¹

This legislation, which includes the strongest language prohibiting misclassification in the United States, grew out of not only the alliance’s political mobilization, but also the success of California’s then-Attorney General Jerry Brown’s prosecution of cases involving misclassification in drayage. In 2008, Brown launched a series of lawsuits “prosecuting California port trucking companies for engaging in employee misclassification, and for failing to provide workers with Social Security, worker’s compensation, and Medicare benefits that they are legally entitled to, according to California state law” (Howard Law, 2010). Five successful lawsuits were filed. One suit, filed against Pacifica Trucking, argued that “the drivers for Pacifica should have been classified as employees, with all of the legal benefits that employees are entitled to under state law, and not independent contractors--as Pacifica Trucks maintained total control over the drivers, by providing and covering the trucks, gas, equipment, and other employee expenses related to their business, including repairs.” California’s Superior Court in Los Angeles County upheld Brown’s complaint, after which Brown warned California employers “that if they cheat California workers out of their legally entitled employee benefits according to California state law—‘we’re coming after you.’”²²

At the same time the Coalition was making progress in California, the National Employment Law Project launched research on the misclassification of port truck drivers. The work culminated in two reports -- *The Big Rig*, and a follow-up study, *The Big Rig Overhaul*, documenting how most port truck drivers were misclassified as “independent operators” when they were, according to the relevant labor and employment laws, actually employees whose rights were ignored by trucking companies and government regulatory agencies.²³ The reports fueled an IBT/Change-to-Win campaign against misclassification throughout the nation. In New Jersey, the campaign persuaded the Legislature to pass a bill revising the state’s labor and employment laws by

²¹ State of California.

²² Howard Law.

²³ Smith, Marvy & Bensman; Smith, Marvy & Zerolnick.

making explicit that formal guidelines should be used to judge whether or not port truckers were employees. However, after the Legislature passed the bill, Gov. Christie vetoed it.

Nevertheless, the campaign against misclassification continued to rack up numerous victories. Between the publication of the two Big Rig NELP reports, up to 400 complaints were filed with the California Division of Labor Standards Enforcement for wage theft associated with misclassification.²⁴ In one representative case, seven drivers working for Pacer Cartage were awarded \$2.2 million for “unlawful deductions, reimbursable business expenses, interest, waiting time penalties and attorney fees.”²⁵ The hearing officer in the case declared that “(T)he defendant considered the plaintiffs to be independent contractors; however, the amount of control exhibited by the defendant over the plaintiffs was to such a degree that the defendant knew or should have known that the plaintiffs were employees.”²⁶ Further, there have been more than 115 official rulings since 2011 regarding the misclassification of port truckers, with state and federal courts and agencies concluding that the port drivers meet the criteria of employees rather than independent contractors.²⁷ The mounting legal violations are stimulating action at all government levels. “By treating employee drivers as independent contractors, port trucking companies are violating a host of state and federal labor and tax laws, including provisions related to wage and hour standards, income taxes, unemployment insurance, organizing, collective bargaining, and workers’ compensation.”²⁸ Most recently, the Los Angeles County Board of Supervisors opened an investigation about how it could be more rigorous in regulating work conditions in the local drayage industry.²⁹

On the federal level, the Federal District Court for Central California reinforced the truckers’ local victories on Sept. 30, 2014 by rejecting the request of a trucking company, Shippers’ Transport Express, to dismiss a complaint filed by port truckers citing seven causes of legal action including failure to pay minimum wage, failure to reimburse for business expenses, unlawful coercion, failure to provide accurate itemized wage

²⁴ Smith, Marvy & Zerolnick;

²⁵ TruckingInfo.

²⁶ Ibid.

²⁷ Smith, Marvy & Zerolnick.

²⁸ Ibid.

²⁹ Rhonda Smith, “Los Angeles County Board of Supervisors Reviewing Port Truckers’ Concerns.”

statements, and unfair business practices. The Court's decision cleared the way for Shippers' drivers to claim their rights as employees.³⁰

This was followed by another legal victory when a San Diego Superior Court upheld the \$2 million award to employees of Pacer Cartage who had been "improperly misclassified as independent owner operators."³¹

Emboldened by their victories in state regulatory bodies and in the courts, Southern California port drivers have been taking labor actions aimed at organizing for collective bargaining. In the fall of 2013, Los Angeles port drivers for Green Fleet Systems, Pac 9 Transportation and American Logistics International struck. In the Spring of 2014, the Teamsters supported a 48-hour work stoppage at LA/Long Beach by drivers for four trucking companies in order to address wage theft, workers' rights, and misclassification. They were joined by drivers at the Port of Savannah who were also protesting their status as independent contractors. The campaign escalated in the summer of 2014, when port drivers in LA engaged in a wider work stoppage with Pac 9 Transportation, Green Fleet Services, and Total Transportation Services that temporarily shut down three Marine Terminals including Evergreen Container Terminal, one of the port's largest, as longshore workers walked off the job in support. Unlike prior strikes which had been scheduled to last forty-eight hours, this strike was open-ended (Bradbury, 2014). Four months later, drivers struck what ultimately became eight trucking companies. This action occurred at the same time as the shipping industry and the West Coast longshoremen's union, the ILWU, were in the midst of tense negotiations, while containers were piling up on the docks. As a result of these coordinated actions, all eight trucking companies agreed to formal talks for resolving the issue of misclassification.³²

Together, the IBT/Change to Win campaign's legal victories, and its escalating mobilizations bore fruit in the winter of 2015 when Shippers Transport, Inc., recognizing that a resounding defeat in District Court was impending, recognized its drivers as employees. The union quickly signed up members, won recognition with an 80% vote, and bargained a contract approved by a 65-5 vote. The agreement included an hourly wage boost of three dollars an hour, to twenty-one dollars, overtime, pay, full medical

³⁰ United States District Court.

³¹ P. Rosenberg, "Port truckers have gained two key victories, but the pain of deregulation persists."

³² Bensman, 2014.

insurance, a defined benefit pension plan, paid holiday and sick leave, and a union grievance procedure.³³

And then the Teamsters unveiled a new strategy to clinch its transformation of drayage, in April 2015, following another strike at the southern California ports. After the drayage firm Green Fleet announced that it would reclassify its drivers as employees, and negotiate a contract with the Teamsters – an action that the courts had all but forced the company to take – the Teamsters announced that L.A. Mayor Eric Garcetti would hold a press conference. Surrounded by representatives from the Teamsters and Change-to-Win, and Alex Paz, a port driver leader, as well as by executives of a drayage firm, the Mayor announced the formation of a new company that would revolutionize the industry. With capital raised by a private equity firm that owned one drayage company, Ecoflow Transportation would employ drivers, acknowledge their right to organize, operate with a union contract, buy new trucks, and introduce technological and operational innovations that would enable it to compete with companies paying much less. With help from the Teamsters and port truckers fighting misclassification, Ecoflow would recruit 600 drivers during a period when its much-smaller competitors were suffering a driver shortage. The age of wage theft in port trucking was over, Garcetti announced.³⁴

Well, not quite. As of today, only 600 of Southern California port truckers have union contracts, out of a fleet of more than 10,000 trucks. In June, 2016, drivers at two companies struck against wage theft. The owners of both the struck companies represent new capital that has been invested in the industry. One is a Chinese company with ties to Chinese shipping lines. The other is XPO Logistics, which is the fastest-growing logistics company in the world, in the wake of its purchases of trucking and warehouse companies in the U.S., Britain and continental Europe. The labor problems at these two new entrants at the Southern California ports indicate that the business model in drayage is shifting, as companies see the opportunity to extract greater rents by integrating links in the logistics chain that had previously been separate. How this shifting business model will affect workers' efforts to organize and gain voice, and unions' efforts to enforce labor rights in the port trucking industry remains to be seen.

³³ Rosenberg.

³⁴ B. Watt, "New port trucking company launches with employees."

- Apostolopoulos, Y., Sönmez, S., & Shattell, M. (2010). "Worksite-induced morbidities of truck drivers in the United States." *AAOHN Journal*, 58(7), 285-296.
- Belman, D. L., & Monaco, K. A. (2001). "The effects of deregulation, de-unionization, technology, and human capital on the work and work lives of truck drivers." *Industrial and Labor Relations Review*, 54(2A), 502-524.
- Belzer, M. H. (1995). "Collective bargaining after deregulation: Do the teamsters still count?" *Industrial and Labor Relations Review*, 48(4), 636-655.
- Belzer, M. H. (2000). *Sweatshops on wheels: Winners and losers in trucking deregulation*. Oxford: Oxford University Press, USA.
- Bensman, D. (2008). "Globalization and the labor markets of the logistics industry." Sloan Industries Studies Conference, Boston Massachusetts, May 2, 2008, paper presentation.
- Bensman, D. (2009). "Port trucking down the low road: A sad story of deregulation." Demos, http://www.demos.org/pubs/trucking_072009.pdf
- Bensman, D. (2014). "Misclassification: Workers in the borderland." *Journal of Self-Governance and Management Economics*. 2(2)
- Bensman, D., & Bromberg, Y. (2008). "Port truckers survey at New Jersey ports." New Brunswick, NJ: Rutgers University.
- Bonacich, E. & Wilson, J.B. (2008) *Getting the goods: ports, labor, and the logistics revolution*. Ithaca, N.Y.: Cornell University Press.
- Bonacich, E. (2003). "Pulling the plug: Labor and the global supply." *New Labor Forum*, 12(2) 41-48.
- Bonacich, E., & De Lara, J. D. (2009). "Economic crisis and the logistics industry: Financial insecurity for warehouse workers in the inland empire." UC Los Angeles: Institute for Research on Labor and Employment. Retrieved from: [Http://www.Escholarship.org/uc/item/8rn2h9ch](http://www.Escholarship.org/uc/item/8rn2h9ch),
- Bradbury, A. (2014). "California port truckers strike closes three terminals." *Labor Notes*, July 8. <http://www.labornotes.org/blogs/2014/07/california-port-truckers-strike-closes-three-terminals>
- Bureau of Labor Statistics. (2012). "Census of Fatal Occupational Industries." United States Department of Labor, Bureau of Labor Statistics. <http://www.bls.gov/iif/oshcfoi1.htm#2012>
- Bureau of Labor Statistics. (2013). "National Occupational Employment and Wage Estimates," United States Department of Labor, Bureau of Labor Statistics. <http://www.bls.gov/oes/tables.htm>

- DePillis, L. (2014). "Trucking used to be a ticket to the middle class. Now it's just another low-wage job." Washington Post, April 28. <http://www.washingtonpost.com/blogs/wonkblog/wp/2014/04/28/trucking-used-to-be-a-ticket-to-the-middle-class-now-its-just-another-low-wage-job/>
- Dubai, Veena (forthcoming). "Wage Slave or Entrepreneur?: Contesting the Dualism of Legal Worker Identities." California Law Review, forthcoming, Feb. 2017.
- East Bay Alliance for a Sustainable Economy. (2007). "Taking the low road." Oakland, CA.: East Bay Alliance for a Sustainable Economy.
- Gereffi, G., Humphrey, J., & Sturgeon, T. (2011). "The governance of global value chains". Review of International Political Economy 12:1 February 2005: 78–104.
- Gonzalez, P. A., Minkler, M., Garcia, A. P., Gordon, M., Garzón, C., Palaniappan, M. (2011). "Community-based participatory research and policy advocacy to reduce diesel exposure in West Oakland, California." American Journal of Public Health, Dec. 2011. 104:9, 1615-1623.
- Gorman, S. "Labor Friction Intensifies Between Port Truckers, Shippers." The New York Times, Oct. 27, 2015.
- Harrison, R., Hutson, N., West, J. & Wilke, J. (2007). "Characteristics of drayage operations at the port of Houston, Texas." Transportation Research Record, 2033(-1), 31-37.
- Howard Law, PLC (2010), "California Attorney General Fights Employee Misclassification and Workers' Rights Violations". July 9, 2010. <http://www.howardlawpc.com/lawyer-attorney-2237106.html>
- Hricko, A.M. (2006). "Ships, trucks, and trains: Effects of goods movement on environmental health." Environmental Health Perspectives. 114(4):A204-A205.
- Husing, J., Brightbill, T. & Crosby, T. (2007). "San Pedro Bay Ports Clean Air Action Plan: Economic Analysis." Sept. 7.
- Jaffee, D., & Rowley, A. (2009). "Hauling containers: Port drayage drivers in the logistics supply chain". Presentation at the annual Southern Sociological Society meetings, April, 2009, Atlanta.
- Lewchuk, W., Clarke, M., & DeWolff, A. (2011). *Working without commitments: The health effects of precarious employment*. Montreal, Canada: McGill-Queen's Press-MQUP.
- Monaco, K., & Grobar, L. (2004). A study of drayage at the ports of Los Angeles and Long Beach. Unpublished Research Study, California State University, Long Beach, Department of Political Science.
- Moberg, D. (2013). "Fired warehouse workers want action from Walmart." In These Times, March 18.

- http://inthesetimes.com/working/entry/14742/fired_warehouse_workers_want_action_from_walmart/
National Employment Law Project. (2012). “The low wage recovery and growing inequality.”
”http://www.nelp.org/page/-/Job_Creation/LowWageRecovery2012.pdf Accessed Oct. 30, 2015.
- National Labor Relations Board. (2015). Board Issues Decision in Browning Ferris Industries. August 27. <https://www.nlr.gov/news-outreach/news-story/board-issues-decision-browning-ferris-industries> Accessed, Nov. 1, 2015.
- Paul, Sanjukta (2016). “The enduring ambiguities of antitrust liability for worker collective action.” *Loyola University Law Journal*, 47, 969. 2016.
- Peoples, J., & Talley, W. K. (2004). “Owner-Operator Truck Driver Earnings And Employment: Port Cities And Deregulation.” *Research in Transportation Economics*, 10, 191-213.
- Port Jobs. (2007). Big rig, short haul: A study of port truckers in Seattle. Port Jobs, Seattle, WA. http://www.portjobs.org/storage/documents/bigrig_shorthaul.pdf
- Prince, T. (2005). “Endangered species: Economic instability threatens drayage operators and their customers.” *Journal of Commerce*, 12–16.
- Quinlan, M., Mayhew, C. & Bohle, P. (2001). “The Global Expansion of Precarious Employment, Work Disorganisation, and Consequences for Occupational Health: A Review of Recent Research.” *International Journal of Health Services*, 31 (2), 335-414.
- Quinlan, M. & Bohle, P. (2009). “Over-Stretched and Unreciprocated Commitment: Reviewing Research on the OHS Effects of Downsizing and Job Insecurity.” *International Journal of Health Services*, 39 (1), 1-44.
- Rosenberg, Paul. (2015). “Port truckers have gained two key victories, but the pain of deregulation persists.” *Salon*, Feb. 15, 2015.
- Smith, Rebecca., Bensman, D., & Marvy, P. (2010) “The big rig: Poverty, pollution, and the misclassification of truck drivers at America’s ports.” National Employment Law Project.
- Smith, Rebecca., Marvy, P., & Zerolnick, J. (2014) “The big rig overhaul: Restoring middle-class jobs at America’s ports through labor law enforcement.” National Employment Law Project.
- Smith, Rhonda. (2015). “Los Angeles County Board of Supervisors Reviewing Port Truckers’ Concerns,” *Bloomberg Daily Labor Report*, May 22, 2015.
- State of California, Division of Industrial Relations (2011), “Worker Misclassification.”
http://www.dir.ca.gov/dlse/worker_misclassification.html

- Tompa, E., Scott-Marshall, H., Dolinschi, R., Trevithick, S., & Bhattacharyya, S. (2007). "Precarious employment experiences and their health consequences: towards a theoretical framework." *Work: A Journal of Prevention, Assessment and Rehabilitation*, 28(3), 209-224.
- TruckingInfo. (2014). "California rules seven port truckers wrongly classified as independents".
TruckingInfo, April 2.
<http://www.truckinginfo.com/news/story/2014/04/california-rules-seven-port-truckers-wrongly-classified-as-independent-contractors.aspx>
- Underhill, E., & Quinlan, M. (2011). "How precarious employment affects health and safety at work: the case of temporary agency workers." *Relations industrielles/Industrial Relations*, 397-421.
- United States District Court, Central California, Grayling Taylor et al. v. Shippers Transport Express, Inc. et al. Sept. 30, 2014
- Watt, B. "New port trucking company launches with employees." KPCC Radio. <http://www.scpr.org/news/2015/05/05/51447/new-port-trucking-company-launches-with-employees/>
- Weil, D. (2014). *The fissured workplace: why work became so bad for so many and what can be done to improve it*. Cambridge, MA. Harvard University Press.
- Williamson, A., Bohle, P., Quinlan, M., & Kennedy, D. (2009) "Short trips and long days: Safety and health in short-haul trucking." *Industrial Labor Relations Review* 62(3):415-429.

ADAPT International Network



ADAPT is a non-profit organisation founded in 2000 by Prof. Marco Biagi with the aim of promoting studies and research in the field of labour law and industrial relations from an international and comparative perspective. Our purpose is to encourage and implement a new approach to academic research, by establishing ongoing relationships with other universities and advanced studies institutes, and promoting academic and scientific exchange programmes with enterprises, institutions, foundations and associations. In collaboration with the Centre for International and Comparative Studies on Law, Economics, Environment and Work, (DEAL) the Marco Biagi Department of Economics, University of Modena and Reggio Emilia, ADAPT set up the International School of Higher Education in Labour and Industrial Relations, a centre of excellence which is accredited at an international level for research, study and postgraduate programmes in the area of industrial and labour relations. Further information at www.adapt.it.

For more information about the E-journal and to submit a paper, please send a mail to LS@adapt.it.

