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THE ORGANIZER



NO
STRIKE-
CLAUSES
AND
THE
IWW

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The Organizer is the blog of the Twin Cities General Membership Branch of the Industrial Workers of the World (IWW). Our goal with this blog is to publish news and info about our union, as well as be a resource for on-the-job work stories and perspectives on both the IWW and the wider situation and experience of working class people in the Twin Cities.

We welcome leads, ideas for stories, reviews and original writing. If interested please email us: theorganizertc@gmail.com

This article reflects the opinion of the author and not necessarily the opinion of any official part of the IWW.



fired organizers and Wobblies with experience in some IWW contract shops would tell you, it is more often than not, a heavy, rusty shield, full of gaping holes, that can work better to protect the employers from our direct action sword. Labor law and contract negotiation precedent can be important things to know, but we must remember they are not tools made for our use, and we should not base decisions solely on how they will be interpreted by the capitalists and their rules.

Conclusion

No-strike clauses represented the worse of craft and conservative unions, then going on to reflect the 'labor peace' industrial unionism of the CIO, before eventually being one of the causes degrading the state of all unions today.

They encourage collaboration between classes, stifled working class struggle and can turn even organizations like the IWW into just a group of representatives who enforce and service a contract.

As we grow, as we turn the page from lessons learned in our organizing over the last 10 years, let us truly represent revolutionary unionism. Let's avoid the foreseeable mistakes of the mainstream unions and position the IWW as a place for militant, combative struggle.

workers in a democratic organization that holds discussions and votes on how we ourselves will operate and run the union. We *are* workers..and we *are* the union.

Growth

Another argument for allowing no-strike clauses is that contracts almost always include them, so saying no is saying no to a growing union.

That could be true. It's hard to know. I imagine old-timer Wobblies in the late 1950s when membership had plunged to the double digits would have had a hard time imagining in 2012 there would be 2,000 members, many of them young people and new immigrants actively engaged in class struggle in the new dominant industries of our age. Similarly, because most of us have only been alive during the time business unionism has been dominant, it can understandably be difficult to imagine a path different from the one that seems the most familiar.

However, bigger numbers doesn't automatically mean the type of union we want to see. An IWW with 1 million members, but with practice, structure and methods no different from SEIU or UFCW wouldn't be a desirable IWW. It wouldn't even be the IWW.

No organization can be 'pure' (whatever that means!), but we also need to be sure we take principled stands and see growth as something that should happen on our terms rather than sacrificing principles as a quick fix for growth.

Legality

Another concern is how banning no-strike clauses will be interpreted by employers or the state. I don't have a whole lot to say about this as I'm not a lawyer and not extremely versed in contract negotiation precedent or labor law. Legal concerns as a main concern seem to miss the mark though.

As explained in the OT101, labor law is not neutral. Sometimes we explain it as 'a shield while direct action is the sword'. But as

Recently there's been a decent amount of discussion about no-strike clauses, both in the IWW and within wider labor-left circles¹. It's a really interesting discussion, because finally a specific element of contractual organizing is being called into question in relation to how we organize and what our goals are.

In the wider labor movement, the discussion has branched out of the situations with the port shutdowns, Occupy and the ILWU, as well as the events in Wisconsin². There has also been a much talked about book by Joe Burns called *Reviving the Strike*, which has launched conversation on labor law and the various strike-limiting provisions in contracts.

In this article, I'll attempt to explain what a no-strike clause is, how it became common, what previous Wobblies thought of it and why it is bad for our organizing, our union and for the type of working class movement we want to see.

What is a no-strike clause?

For those who don't know, or are unclear, a no-strike clause "is a provision in a collective bargaining contract in which the union promises that during the life of the contract the employees will not engage in strikes, slowdowns, or other job actions."³

This clause is a part of most contracts between employers and unions, and has been since the 1930s, although it has been common in craft and conservative unions for far before then. I've heard that there are some mainstream union contracts in various places that do not include no-strike clauses, but more often than not, they are expected parts of negotiated contracts.

An example of no-strike clause language is the following, which is actually the exact language of a contract the IWW has that was negotiated in 2011.

“No strike: During the term of this Agreement, neither

1 'No strike clauses hold back unions' <http://bit.ly/sQYRgL>

2 'The general strike that didn't happen: a report of IWW activity in Wisconsin' <http://bit.ly/MG9gVu>

3 No strike clause <http://bit.ly/PKeYXB>

the Union nor its members shall incite, encourage, or participate in any strike, sympathy strike, walkout, slowdown or other work stoppage of any nature.”

Notice the language includes not only the official union body, but the workers. So official and unofficial (not necessarily sanctioned by the union) job action is prohibited by this no-strike clause.



Short History of the No-Strike Clause

Being far from a labor history buff, I can't get too deeply into how they arose. Other people smarter than me have talked about the rise of contracts and no-strike clauses within them. For instance, Staughton Lynd at the 2002 General Assembly⁴:

“The Wobbly Practices so widespread in the locals of the early CIO were snuffed out from above. Wobblyism was done in not only by employers, but also by trade union bureaucrats like John L. Lewis and Walter Reuther, and by government bureaucrats, arbitrators and judges. In place of a praxis of direct action created from below,

⁴ 'A Wobbly strategy for fundamental change' <http://bit.ly/SG6zRK>

shops with no strike clauses. How they ended up that way is a story worth telling. Hopefully, the people involved at that time do exactly this at some point.

While I'm not exactly sure why those contracts exist, part of the reason is that they were negotiated prior to us really having any agreed upon way of organizing. Today, while not everyone agrees, they agree to a much greater extent than in 1998 or 2005.

It's unfortunate that there are IWW members working in shops with contracts little different from the aspects of AFL-CIO unionism we oppose. I hope those workers can get to a point where those things are fought against and successfully rejected. I wish them the best. But...as our union grows, as workplace organizing becomes a standard expectation of every Wobbly, we can't allow that type of organizing model to continue or flourish.

Some may disagree with me. That's fine. This doesn't make them less revolutionary or less of a sincere Wob. There are, at face value, compelling arguments to be made in favor of allowing campaigns sole discretion in these matters. Let's go over some of them.

Democracy

This is usually stated like “Who are we to dictate to workers how to struggle”. This argument is problematic for a couple of reasons. Firstly, we 'dictate' all the time. We 'dictate' that IWW members pay dues, agree to the preamble and abide by the constitution. There are a series of rules governing how campaigns get money and resources, how branches need to be run and who officially represents us to the public. We also do not allow dues checkoff or crossing picket lines to be in agreements between employers and our union. We obviously do 'dictate', if 'dictate' means 'set rules, standards and parameters for what we do'. This is done because these things are reflective of the organization we want to see, not because we are all secret 'dictators' that want to tell our Fellow Workers what to do.

Secondly, why is 'workers' talked about as almost a separate, third-party? Are we not workers? Seems to me that we are

Solidarity Unionism

The model of Solidarity Unionism that the IWW has used was conceived as a solution to go our own way, instead of copying business union strategy and tactics. It said basically, we can act even without majority status.

However we must admit that it's an incomplete model. There are many things we do well, but there are struggles we haven't seen yet, experiences we haven't had. Kevin S from the Twin Cities IWW talks about this in a recent article called 'Small time unionism'⁸. From his experience helping out and supporting the Jimmy Johns campaign here in the Twin Cities, he noticed some things he identified as flaws and wrote about them. While not solely (or explicitly) about solidarity unionism, a lot of the article can be seen as a critique of how far the union has to go and the conversations that still need to happen.

But as the editor of the Workers Power column said much more eloquently than I recently⁹, the IWW has advanced by leaps and bounds from where it was 10 years ago. Around then, a new crop of members took the conception of solidarity unionism very seriously and began to construct a real life model, once again reframing our focus on workplace organizing. Through years of experience, the Organizer Training 101 was created. For the first time in a while, we began systematically sharing the wealth of knowledge we have in the IWW. New fights began in the food and retail industries. We can no longer be dismissed as a labor history sect or mere activist group. We are now a small, vibrant union with massive potential. But potential for what?

The question of no strike clauses is really a question of how we see this potential expressing itself. Are we, as I believe, blazing a modest new path for working class organizing or will we simply settle for emulating the same mainstream unions we criticize?

Current no-strike clauses and some concerns

Currently in the IWW, there are (I believe) at least 4 contract

⁸ 'Small time unionism' <http://bit.ly/NCa4pb>

⁹ 'Towards an organizational theory' <http://bit.ly/JiooG6>

there came into being what historian David Brody calls "workplace contractualism": labor-management relationships governed by collectively bargained contracts. No matter how short, these contracts almost always contained a no-strike clause. [...] Within a very few years, the new CIO union recreated the obstacles to collective direct action that Wobblies had criticized in the old AF of L.

Nothing in the National Labor Relations Act (the Wagner Act) of 1935 required CIO unions to put a no-strike clause in their contracts. Trotskyist organizer Farrell Dobbs showed that over-the-road truckers could organize successfully despite the fact that their first contracts did not give up the right to strike. The establishment of workplace contractualism, with the inclusion of no-strike and management prerogatives language in all but a few CIO contracts, was substantially complete before the passage of the Taft-Hartley amendments in 1947 and the expulsion of leftist unions from the CIO soon afterwards."

Conventional wisdom in the IWW often blames the state solely for developments such as business unionism, contractual organizing and no-strike clauses. But as Lynd also explains at the 2005 IWW Centenary⁵, unions such as the CIO were just as much responsible for this.

"In the face of this obvious concern on the part of the legislative drafters to protect the right to strike, the leaders of the emergent CIO gave that right away. To be sure, the courts helped, holding before World War II that workers who strike over economic issues can be replaced, and holding after World War II that a contract which provides for arbitration of grievances implicitly forbids strikes. But the courts are not responsible for the no-strike clause in the typical CIO contract. Trade union leaders are responsible."

Unambiguously, leaders like John L. Lewis openly admitted the

⁵ Staughton Lynd's remarks on Solidarity Unionism' <http://bit.ly/PxqaFi>

purpose of the CIO contract and the provisions within them.

“A CIO contract is adequate protection against sit-downs, lie-downs, or any other kind of strike.”

What the CIO was selling was labor peace after its conditions were met. Whether its leaders (or rank-and-file, for that matter) could imagine that this would eventually lead to the pitiful state of the labor movement today is a question worth asking.

The Historical IWW's Views

I've heard from a branch member here that the IWW in the 1930s and 1940s relentlessly criticized the CIO practice of signing contracts with no-strike clauses. I don't have access to the publications where these were in, and if anyone does, please put them online, for the benefit of us all! Looking around through, you can find some stances towards no-strike agreements in contracts from the historical IWW.

In a pamphlet from 1920 called *The I.W.W. in the Lumber Industry*⁶, it states:

“When workers sign an agreement not to strike, they sign away the only weapon they possess.”

Looking elsewhere, we find that to some Wobblies then, contracts and restriction on job action were indistinguishable from each other. Here's Arturo Giovanitti⁷ in 1913:

“We have no contract, because we refuse to sign any contract with the bosses, and by having no contract with the various trades or with the various industries we are in a way free at a moment's notice to call a strike in which every industry will be affected throughout the State or nation, and by a series of strikes and by the enforcement of the boycott, whereby we can refuse to buy goods from an unfair firm, and by a rigid application of the label we can force the capitalist class to terms.”

6 'The IWW in the lumber industry' <http://bit.ly/TOuG34>

7 'The constructive side of syndicalism' <http://bit.ly/NdZyoU>

This hostility to agreeing to restrictions on strike activity or job actions existed because Wobblies saw their union as a revolutionary one. Not just one exclusively concerned with bread-and-butter issues, but one also at odds with any sort of labor peace.

Revolutionary Unionism

The IWW is a revolutionary union. It is not *just* a union, but one with a vision of drastically changing the way things are now and replacing it with a better world. Because this is what we are, that means how we organize relates back to our outlook. The two are tied. For instance, long ago, organizing industrially reflected the radical wing of the workers movement that saw what craft unionism led to. Similarly, we should look at no-strike clauses and what they encourage. Does the class peace it represents match up with our views?

We are not an AFL-CIO union with red & black flags. We are *so much more* than that. When the IWW organizes, when we build new leaders off the shopfloor, we are building the facilitators of class struggle. Class struggle shouldn't be limited, at least not by us, which is exactly what no-strike clauses do. If we are entering a period of rising struggle, which we seem to be, then we need to be clear about some of the biggest dangers in labor law and contractualism from the start, which will aid us in actually spreading class struggle.

