

## COMMENTARY

### SOLIDARITY UNIONISM AT STARBUCKS: THE IWW USES SECTION 7

*Staughton Lynd and Daniel Gross*

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*Many proposals to solve the labor movement's problems are on the table. There is the idea of operating completely outside the framework of any labor law, state or federal, as the Farmworkers did initially. A second proposal would require employers to bargain with unions that represent less than a majority of workers in an appropriate bargaining unit. Another suggestion is to make the Thirteenth Amendment rather than the Commerce Clause the jurisdictional basis of an amended Labor Management Relations Act. Perhaps workers' centers utilizing state minimum wage laws could put movement back in the Movement, others say. And of course, the mainstream trade union movement advocates card-check designation of an exclusive bargaining representative as their solution of choice. Each of these thoughts comes to us as the change that might turn things around.*

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No new organizing strategy has lifted very far off the ground in the real world. In none of them can one find any strategy for combating the flight of capital to low-wage economies.

All are constrained by the assumptions of a Social Democratic mindset: first one finds a "progressive" national union leader (such as Lewis, Reuther, Murray, Chavez, Miller, Sadlowski, Carey, and others), then that leader calls for the creation of a labor party, then that labor party peacefully ushers in a new day. It is as if history had stopped in 1913 before the betrayal of socialism by most of the world's Social Democratic parties in August 1914 demonstrated the inadequacy of that perspective once and for all.

Meantime, a group of organizers for the Industrial Workers of the World (IWW) have pursued what at first glance may seem a more conventional strategy: to pursue direct action and to file Unfair Labor practices (ULPs) charge with the National Labor Relations Board pursuant to Sections 7 and 8 of the Labor Management Relations Act (LMRA), while wholly avoiding the provisions for elections in Section 9.

First, this commentary offers a rationale for such a bifurcated organizing strategy. In the remainder of what follows, Daniel Gross of the IWW tells the story of using this approach at the Starbucks Coffee Co.

From the very beginning, the Wagner Act or National Labor Relations Act (later, as amended, the LMRA) had two contradictory objectives.

The first goal of the Wagner Act was to protect workers when they acted together, whether to picket, to strike, or to form a union. Before 1935, workers pursued this objective by seeking to prevent courts from issuing injunctions in labor disputes: that is, by getting the government off their backs. Between enactment of the Norris-LaGuardia Act in 1932 and passage of the Wagner Act three years later, workers got very little assistance from either the government or national unions, but they also were more free to engage in self-activity than at any time before or since. Not coincidentally, these were the years of successful general strikes in Minneapolis, Toledo, and San Francisco, and of a very nearly successful national textile strike.

The Wagner Act represented a different approach. When workers engaged in direct action and organizing, the federal government stepped forward to protect them. A worker or group of workers, who believed their right to engage in “concerted activities for the purpose of . . . mutual aid or protection” had been infringed, could file a ULP charge. The government would investigate, and if it agreed, thenceforth represent the complaining worker or workers before an administrative law judge.

However, this proffered aid came with a price.

The draftspersons of the bill (and, one presumes, the large Congressional majority that voted for it) had a second objective, namely, labor peace. The Wagner Act’s preamble says more about achieving the uninterrupted flow of commerce than about creating a workplace equivalent of the First Amendment. The essential idea, often repeated by Senator Wagner himself, was: Let workers organize unions; let unions then act for their members in collective bargaining and, if need be, in restraining anarchic direct action by individual workers; and, paradoxically, by thus creating freedom, the undesirable exercise of freedom will be restrained. It was a statutory embodiment of Herbert Marcuse’s idea of repressive tolerance.

The cruel corollaries of this two-headed approach soon became apparent. Despite language to the contrary in the law itself, workers who went on strike could be “replaced,” that is, fired. Once a collective bargaining agreement was ratified that prohibited strikes during the life of the contract—as almost all CIO contracts did from the very beginning—workers could no longer wildcat at will. Direct actions in opposition to decisions at the “core of entrepreneurial control,” like closing a factory and taking away your job, were presumptively disfavored. Even minority workers who asked consumers to boycott their boss because of the employer’s discrimination were subject to discipline for engaging in concerted activity on their own, rather than filing a grievance. “Workplace contractualism,” that is, negotiation of collective bargaining agreements by unions empowered by law to act as the exclusive representative of all workers in an appropriate bargaining unit, shouldered aside the solidarity and collective direct action on which workers had always depended.

The means for thus disempowering the rank and file was, of course, Section 9. This is the part of the Act that provides for union elections. In the minds of most union organizers and administrators of the Act, the pieces fit together this way: Section 7 (especially the words that guarantee the right to form a union) is what workers do *before a union is recognized*; Section 9 is how unions put themselves in position to act on behalf of their membership after a *Labor Board election*.

It is, simply, an unholy bargain. In unionized workplaces, the right to strike exists only in a predictable and hence easily controlled manner at the end of the union-negotiated contract. On account of the dues check off, unions are accountable to their members only in instances of extreme misconduct. The “labor movement,” feisty and irreverent, has become the “union movement,” whose functionaries have essentially the same lifestyle as the bosses they ostensibly combat. And not incidentally, a domesticated, tabby cat union movement has altogether failed to find the means or the will to combat the downsizing and closing of manufacturing plants in the U.S. as capital has moved, first to the South, and then to other countries.

The best potential answer to these intractable and often unacknowledged problems may be a small network of organizers who are trying to revive the IWW.

Let us begin by acknowledging the grave problems faced by this effort as Staughton sees them.

1. The majority of IWW members in New York City are in food warehousing and distribution. Significant organizing is taking place at the ports in New Jersey and Los Angeles. Still, a great deal of Wobbly organizing continues in small service establishments such as bookstores, restaurants, health food stores, and the like. These enterprises are not what Lenin had in mind by a capitalist economy’s “commanding heights.”
2. Wobblies, like so many other radicals in the 1920s and 1930s, believed that industrial unionism would, of necessity, be more class-conscious, and more politically radical, than the craft unionism of the old American Federation of Labor (AFL). That has not proved to be the case.
3. IWW theory has not progressed beyond the 1905 Preamble. Solitary comrades like the late Marty Glaberman and Stan Weir have had to try to do the theoretical work that the IWW should have done.
4. In the absence of a coherent theoretical framework evolving in response to new conditions, present-day Wobblies have, in practice, done that which their founding brothers and sisters would have abhorred: they have turned to the instrumentalities of the state to establish revolutionary unions. That is, Wobblies have engaged in elections sponsored by the NLRB (pursuant to Section 9 of the LMRA) as well as filing ULP charges with the NLRB (pursuant to Section 7).

Given the dismal state of affairs for workers in the U.S., why look to the work of IWW organizers for a path through the minefield of Social Democracy? The second part of this article suggests the beginning of an answer.

The limitations of Wobbly organizing also contain latent strengths. For example, small enterprises that offer a service are vulnerable to consumer picketing, perhaps the easiest and most protected form of direct action available to workers and their supporters. Also, in warehouses in Brooklyn and among truck drivers in Los Angeles, the IWW has begun to reach out to enterprises that directly impact industrial manufacturing.

The IWW's orientation to worldwide class solidarity makes possible organizing that traditional unions eschew. Even rank-and-file formations within traditional trade unions often support efforts to keep foreign workers out of the U.S. labor market. Such opposition to immigrant workers recapitulates Samuel Gompers' support for Chinese exclusion. In contrast, independent truckers in Los Angeles, working with the IWW, succeeded in shutting down the port of Los Angeles on May 1, 2007, in support of nationwide immigrant rights protests. Ernesto Navarez, spokesperson for the drivers, explained that the Port Authority knew the truckers were going to strike, and by calling it a legal holiday, avoided liability for the shutdown. "We forced them to recognize May Day."

This article considers organizing at Starbucks in New York City as a case study in a strategy we call "solidarity unionism." Workers for Starbucks are not able to seek NLRB-sponsored elections, even should they wish to do so. This is because Starbucks maintains that the appropriate bargaining unit for workers/employees would be a prohibitively large multistore unit. (The IWW campaign at Starbucks did test the waters with an election petition in 2004. When the NLRB in Washington, D.C. accepted the unit question for appellate review, baristas withdrew their petition because a lengthy delay was guaranteed and a nullification of the election was probable given the Republican majority on the Board.)

Perforce, therefore, Starbucks workers have not used the statutory mechanism designed to produce exclusive bargaining representatives with the power to bargain away their members' rights to concerted direct action.

However, Starbucks workers have made persistent and creative use of Section 7. As a result, the narrative in the succeeding discussions tells the important story of how one might use Section 7 in building a new workers' movement while maintaining a prophylactic distance from NLRB-sponsored elections under Section 9.

### **The State of Affairs in Retail**

Retail workers receive wages far below what is needed to live with dignity. In 2003, a cashier earned an average of US\$8.40 per hour. Food counter workers earned US\$6.99 per hour. In contrast, Starbucks made a profit of over US\$560 million in 2006 on revenues of US\$7.8 billion and Starbucks Chairman Howard Schultz received US\$102 million in compensation.

It is often supposed that retail workers are kids looking for beer and video game money. In New York City, 47 percent of retail workers are at least thirty-five years old and 69 percent are over twenty-five. And, 48 percent of retail workers have children under the age of 18.

In retail, full-time employment is on the way out in favor of “flexibility.” Starbucks employs 150,000 people, 80% of whom are part-time. Starbucks Chairman Howard Schultz downgraded *every* retail hourly position in the company to part-time, with no guaranteed number of work hours per week. A Starbucks worker can get fifteen hours of work for one week, thirty hours the next week, and ten hours the week after that.

Health benefits provided by the company are a far-off dream for most retail workers. Starbucks has claimed that it provides health care to all its employee “partners.” But first of all, Starbucks employees without a guaranteed workweek must work 240 hours per quarter to qualify for coverage. Second, even workers who qualify must pay premiums, co-pays, and deductibles that they often cannot afford. After repeated public challenges from the IWW Starbucks Workers Union (SWU), the company conceded that only 42 percent of Starbucks employees (including management personnel whose higher pay makes health care more affordable) were covered by company health care. The percentage of employees covered dropped over 2006 to just 40.9 percent. Seventy-five thousand Starbucks employees in the U.S. are without health care from the company and are either uninsured or rely on other sources including Medicaid for coverage.

According to government statistics, in 2001, over 80,000 retail workers suffered from muscular–skeletal disorders such as carpal tunnel syndrome. Repetitive stress injuries are common at Starbucks. Management deliberately understaffs and endlessly insists on “speed of service.” Moreover, Starbucks fails to implement the most elementary ergonomic standards. Every drink served requires an unnecessarily long reach to place the cup on Starbucks’ trademark half-moon counter, depositing US\$20 bills requires workers at many Starbucks shops to bend almost to the floor and workers are often not permitted to shift from one task to another.

### **Starbucks’ Misconduct against Workers**

Laura de Anda, twenty-one years old, in her hat and green apron, has just started her shift at Starbucks and after two years on the job, it is hard to manage a smile. Born and raised in Chicago’s Mexican immigrant neighborhood, Pilsen, Ms. de Anda moved to New York to pursue her dream of getting an education in the arts.

The line for Starbucks’ specialty coffees like the latte and Frappuccino, a cold drink blending coffee, ice, and special flavoring or whipped cream, is almost out the door. Staffing is short as usual, so Ms. de Anda is moving extra quickly at the espresso bar, running to ring customers up at the registers while espresso shots are shooting and milk is steaming at the bar. When she has a few free seconds, she spins to the back counter to prepare the Frappuccino mix before it

runs out. The din of the steaming milk, blenders, and workers sprinting back and forth would be overwhelming to the uninitiated, yet Ms. de Anda is holding her own.

It seems that every time she turns around an assistant manager or the store manager is right on her back, nagging or nit-picking.

The lemon loaf is on the wrong side of the banana loaf. . . . Your shirt is too wrinkled. . . . There's a fingerprint on the front door. . . . You took too long waiting in line to go to the bathroom.

Ms. de Anda has heard it all. The managers' bonuses are tied to selling more and more things to customers who do not need them, and getting fewer "baristas" to do more work so as to hold down labor costs.

Thousands of dollars in revenue later, night has fallen and Ms. de Anda has meticulously cleaned the espresso bar, inside and out. There is supposed to be a third worker but the manager "forgot" to put someone else on the schedule. Before leaving, the two workers present must scrub the bathroom, do the dishes, sweep and mop the floor, vacuum the pastry case, haul the milk into the bar refrigerator, take out the trash, Windex all the glass, restock the cups, and fill the condiment bar. The store closes at 12:30 a.m. on Saturday and they have forty-five minutes to complete these assigned tasks. They will be disciplined if at the end of that time anything is not sparkling.

Starbucks management expects workers to stay after their shifts when it is busy no matter what after-work commitments they may have. Working the closing and then the opening shifts—dubbed the "clopener" according to some Starbucks workers—is a common source of frustration. And heaven forbid, if you have to leave work a little early to get to a doctor's appointment.

The grandmother of one Starbucks barista died a few hours before a shift was to begin. The worker called the manager to explain that she was responsible for her grandmother's funeral and burial arrangements, and could not make it to work that day. The manager first expressed disbelief in the worker's explanation and then ordered her, on threat of termination, to call other baristas so as to cover her shift.

Ms. de Anda finishes on time and walks to the subway station for her thirty-five-minute ride to Brooklyn. Exhausted, she closes her fierce brown eyes and immediately falls asleep.

There is not much to smile about. Promised wage increases have never materialized. Ms. de Anda is not getting enough hours of work each week to deal with her bills. While Starbucks pays freight costs for coffee or paper cups, labor "inputs" must deliver themselves to the boss and a thirty-day pass on the subway costs US\$76. In short, Ms. de Anda is mired in retail worker poverty.

Discrimination, sexual harassment, infantilization, verbal abuse, camera surveillance, and arbitrary write-ups are the order of the day in retail. For Starbucks barista Suley Ayala, psychological torment took the form of religious discrimination. Ms. Ayala, a mother of four from Ecuador, is a practicing Wiccan. For

almost four years at Starbucks, she proudly wore an important Wiccan symbol that she almost never takes off, a modest pentagram necklace.

After Ms. Ayala began to organize with her coworkers, management claimed that the necklace was a distraction to customers and demanded that she remove it. Ms. Ayala refused. Management sent her home without pay. A few weeks later, they ousted her from work again. On both occasions, Ms. Ayala was understandably distraught and angry, leaving work on the verge of tears. Not only was she forced to leave work in a very humiliating fashion, the unpaid wages undermined her ability to support her family.

But then something happened. After Ms. Ayala was told to leave, a coworker and fellow member of the SWU put on Suley's pentagram and was himself sent home. Coming on top of public protest, a legal filing, and media pressure, this direct action broke the company's will on the issue as management correctly anticipated that store operations would be disrupted every time they sent Ms. Ayala home. Suley has not been sent home since and Starbucks has reimbursed her for lost pay.

An injury to one is an injury to all.

### **Labor Unions Selling Workers Short**

According to the Bureau of Labor Statistics, only 5 percent of retail workers are union members. What is worse is that union membership means so little. Walk around a unionized New York City grocery store and ask members about their union. Many will not know if they are members or not. Few will know the name of their union. Even fewer see any value in membership.

There are many reasons for the absence of traditional unions in the retail sector. The multinational retailers are extremely powerful and fiercely anti-union. Traditional unions do not like the ratio between the funds they would have to expend to organize and the dues income they could expect if successful. Furthermore, the yearly turnover of the workforce in retail establishments is extremely high. When workers bounce around continuously from one employer to another, as they do in retail establishments, the NLRB election process takes too long. Government certification of an appropriate bargaining unit often involves employer appeals that require two or three years to resolve. All this is what leaders of traditional unions have in mind when they say (privately) that retail workers are "unorganizable."

### **Solidarity Unionism**

Members of the SWU are the first union members in any of the more than 6,000 company-owned Starbucks stores in the U.S. The union was begun by Starbucks workers in New York City fed up with living in poverty and being mistreated. The SWU now has a public presence at ten Starbucks stores in four states and dues-paying IWW members are quietly organizing at several other establishments.

In addition to absolutely central changes with respect to dignity and respect, there have been tangible gains. For example, Starbucks baristas in New York City have won three wage increases, increasing their pay by almost 25 percent in a period when retail wages in the city have been essentially stagnant. When the campaign started in 2004, baristas in New York City began at only US\$7.75 an hour, and they were among the highest-paid workers in the chain. Currently, New York City baristas begin at US\$8.75 an hour, and when periodic “merit” raises and tips are included, many workers now earn about US\$10 an hour. In addition, many Starbucks workers around the country have received unexpected wage increases that they attribute to the organizing drive.

The SWU has made serious inroads on Starbucks’ refusal to guarantee a minimum workweek. Starbucks asked every barista in New York City how many work hours per week were desired, assuring workers that “within reason” the company would seek to comply with their requests. IWW baristas are now generally getting the work hours they demand each week.

After continual pressure from the union, Starbucks has finally stopped denying the existence of repetitive strain dangers. The company dedicated its September 2004 Safety and Security Bulletin to repetitive stress injuries, admitting that the espresso bar was a particular problem. Information about repetitive stress, including exercises designed to reduce this kind of injury, was made part of a new employee manual, and Starbucks’ employee orientation now includes instruction in doing these exercises. The union still demands a comprehensive ergonomic evaluation by an expert to whom the SWU agrees, and scheduling of appropriate numbers of workers on the shop floor.

The solidarity unionism process is straightforward. Workers rather than outside organizers reach out to potential new members, worker by worker. Baristas organize around issues of common concern regardless of whether a majority of workers in a given workplace, or group of workplaces, are union members.

SWU members have engaged in a plethora of creative and provocative direct actions to win concessions from Starbucks. When a critical mass of Starbucks workers has formed a shopfloor committee, workers (together with members from other stores and supporters) will march into the store at peak hours to give the boss a list of demands. Typically, the demands include a living wage, guaranteed work hours, appropriate staffing, respect, and an ergonomically sound environment. There may be militant picketing and managers known to harass workers who are a minute late to work may find their pictures together with a list of their misdeeds on leaflets handed to customers. A favorite tactic (borrowed from the late Saul Alinsky) is for a group of unionists to enter the store at peak hours, buy drinks, and pay for them one penny at a time.

There is more. Disgusted at having to work around rodent or insect infestation at many New York City Starbucks stores, baristas called a press conference in front of one store that featured a giant thirty-foot inflatable rat. SWU member Sarah Bender was reinstated after supporters formed “Billionaires for Bush and Starbucks Chairman Howard Schultz,” entered Sarah’s store in full

aristocratic regalia, and presented a framed union-buster of the year award to the manager who fired her. The Billionaires called for the abolition of the labor movement and praised the inequitable distribution of wealth under capitalism. They said that Starbucks was their kind of company.

Solidarity has poured in from around the world. IWW baristas took part in the historic immigrant protests on May 1, 2006 that reclaimed May Day for the entire working class of the U.S. A “Justice from Bean to Cup!” initiative seeks to link SWU to the farmers who grow the coffee that baristas sell. A delegation of SWU activists has just returned from Ethiopia where they sought to connect with coffee farmers who grow beans for Starbucks. A protest coalition in Scotland served free Zapatista-grown Fair Trade coffee outside one store and handed out information about union-busting and exploitative land practices in Mexico.

In this context—but only in this context—the activity of SWU members in the legal arena makes an important contribution. The first ULP charges filed by Starbucks baristas in New York City resulted in a settlement requiring the company to reinstate two discharged workers and to rescind company-wide policies that forbade employees to share written union information and to wear union pins.

In the immediate aftermath of this settlement, Starbucks again began breaking the law. Six IWW baristas are out of work at the moment because of illegal terminations. Wobbly baristas and their supporters are fighting these terminations in the streets and at the Labor Board. In March 2007, the Labor Board issued yet another complaint against Starbucks for massive union busting including retaliatory terminations. The legal victories have been an important platform from which the SWU has articulated its message through the corporate media. This last complaint generated coverage in the *New York Times*, the *Washington Post*, and National Public Radio, among other outlets.

It is a testament to the courage of coworkers and the breadth of support around the world that in the face of such retaliation, the SWU still enjoys consistent growth.

### **Solidarity Union Power and Challenges Ahead**

Solidarity unionism like any other form of unionism faces great difficulties. Any union drive in the U.S., regardless of form, can expect determined employer opposition. Just two days after the first union of Starbucks baristas announced its existence, Starbucks Chairman Schultz issued an antiunion voicemail distributed in stores throughout North America.

Solidarity unionism also faces challenges that are to some extent unique. The great “pro” of the model is a “con” as well: solidarity unionism requires continuous participation by its members. The benefits accruing to an energized, mobilized working class are clear. However, being mobilized without respite can be draining and for some is unsustainable. The costs of perpetual struggle must be considered and counteracted. A critique of conventional collective bargaining

should not stand in the way of agreements with the boss about particular issues, reduced to writing and made known throughout the workplace.

When a company decides to “do business” with a traditional union, the employer can look to the trade union bureaucracy to contain and suppress the spontaneous militancy of union members. A solidarity union cannot and would not wish to provide the same assurances. Therefore, a solidarity union must be prepared to do more than a bureaucratic union to compel profit-maximizing corporations to concede on issues of concern.

The bottom line is that there are no shortcuts in solidarity unionism. The state of rest provided by the dues checkoff is not available. Because the union is the workers, because every member is an organizer, because in solidarity unionism we have no leaders, the union lives and dies with the initiative and activity of its members.

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