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What the Supreme Court's Janus decision means for unions and workers  
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(MUSIC)

PITA: Hello, and welcome to another episode of Intersections, part of the Brookings Podcast Network. I'm your host, Adrianna Pita.

Forty-one years ago, the Supreme Court ruled, in *Abood vs The Detroit Board of Education*, that since public sector unions are legally obligated to represent all employees in a unionized workplace, those unions could legally charge what are often known as fair share or agency fees to non-union members. Less than the cost of full membership, fair share fees help to offset the cost of collective bargaining and contract administration, from which all employees benefit, but could not be spent on the union's political activities.

This June, the Supreme Court overturned that decision, in *Janus vs The American Federation of State, County and Municipal Employees*, barring the collection of those fees from employees who don't wish to be represented by the union.

Unions, in general, have been on a steep decline for the past few decades, particularly in the private sector, corresponding with the decline of manufacturing, and with The Right to Work Laws in 28 states. With this Janus decision, the big question, now, is: what does this mean for the future of not only public sector unions, but of the economic and political power of unions more broadly?

So, with us, today, to discuss this are Elizabeth Mann Levesque and Vanessa Williamson, both Fellows in our Governance Studies Program; Elizabeth also with our Browns Center on Education. Elizabeth and Vanessa, thank you for being here today. Welcome.

WILLIAMSON: Thank you.

MANN LEVESQUE: Thanks for having us.

PITA: Right. Vanessa, can I ask you, maybe, to start, to lay out some of the details of this decision, sort of the overview? Why did the court decide that this was a First Amendment issue, and how does it compare to these Right to Work Legislations that exist in the state?

WILLIAMSON: Right, so as you said, *Janus vs AFSCME* was about agency fees, and whether public sector unions in 22 states that allow that could charge those to non-union members who benefit from collective bargaining. The argument was made by the plaintiffs, and this is what the conservative majority found convincing, the argument was made that

agency fees constitute a first amendment violation because the collective bargaining that a public sector union does is with the government, and, therefore, it is, sort of, intrinsically about public policy, okay?

So, that very same argument was made, as you pointed out, in *Abood*, 40 years ago now, and was not found convincing by any of the Judges at the time, but the Court has changed a great deal, in the meantime. So, what the court decided was that, because a public sector worker might object to the public policy implications of a particular collective bargaining negotiation, that was a violation of their right of free speech.

Now, back in *Abood*, the Judges argued the opposite, which is that, of course, that public sector workers still had every right to go out public and oppose what the union was doing on their behalf, but, in this case, it was decided in the opposite direction.

PITA: Can you talk a little bit about who this will affect, both in terms of the demographics and job sectors? I know, for a lot of people, you say a union worker, and you see this in a lot of the stock photography that gets used in news articles, but these people still think of the white male assembly line worker, but there's been a big growth in women, and particularly women of color, amongst unions. Can you talk a little bit about that?

WILLIAMSON: That's absolutely right. So, while men are still slightly more likely than women to be unionized in this country, about 11% of men and 10% of women are unionized in this country. It's actually more common for African Americans to be unionized than white people. So, yeah, that stock photo of the gristled, old, white guy in a factory line position is that -- is a little bit outdated, and, so, in particular, when you're talking about Public Sector Unions, the public sector has, for a long time, been a place that has been more welcoming than -- somewhat less discriminatory towards African Americans in this country. So, it has traditionally been a place where African Americans got middle-class jobs. You can think of this in terms of, like, the teaching population, the people who work in security, and all of those sorts of aspects, and that sort of public good, right, have a large minority population in many states.

MANN LEVESQUE: And in terms of the sectors that this will affect as well, of course, is the facts. Everyone in Public Sector Unions, but one profession in particular that keeps coming up, are teachers, and education; part of that is because, you know, the largest public sector

union in the U.S. is the National Education Association, which is a teachers' union. I mean, they've been very local, you know, through the course of this case, and, I think, when we're thinking about who's affected, of course, something else to keep in mind is that the majority of teachers are women, and, so -

PITA: Mm-hmm.

MANN LEVESQUE: -- that's just kind of another point, echoing what Vanessa said, which is, that this not just affecting who we might have thought of as the stereotypical union member, you know, 50 years ago, or something like that.

PITA: Sure, and, just on a point of clarification, because I know when I was first reading this, I was reminded of a 2011 case that's very similar, in Wisconsin, where they similarly forbade the use of the collection of the fair share fees from public sector workers, but they excluded law enforcement. It was, like, the police, the firefighters, the state patrol. Does Janus cover all aspects of the Public Sector? What are some of the other things that are included under public sector?

WILLIAMSON: Right. So, the decision was made about the fact that collective bargaining involved interacting directly with the Government, and, therefore, with public policy. So, it's a broader decision, in that way, but it only applies to the 22 states, where -

PITA: Ahh.

WILLIAMSON: -- public sector workers had agency fees in place.

PITA: Okay.

WILLIAMSON: So, that's the difference. More broadly, of course, the what are called, I think pretty misleadingly, right to work laws, so, it doesn't actually give you any particular right to work. Many people, who are unemployed, would like a right to work, but right to work laws, which are these laws that limit union dues collection, actually vary from state to state. So, this is, and in many states apply private sector workers as well, of course.

PITA: Mm-hmm.

WILLIAMSON: So, this, particular decision is specifically about the public sector, and so may play out a little differently from some of the state level legislation we've seen.

MANN LEVESQUE: Is it the case, Vanessa, that, in the 28 states that have right to work

laws, so, is there variation in the extent to which they limit agency fees?

WILLIAMSON: So, there is variation by state, and off the top of my head -

MANN LEVESQUE: Yeah.

WILLIAMSON: -- I would really not want -

MANN LEVESQUE: Yeah.

WILLIAMSON: -- to name the state (inaudible)

MANN LEVESQUE: Yeah.

WILLIAMSON: But, yeah, I think there is some variation in that, exactly.

MANN LEVESQUE: Okay. So, one interesting thing, to me, that, you know, I obviously don't know how this is going to play out, but I think one thing, just to keep in mind, when we're thinking about a potential long-term implications, is that, on the one hand, this is a huge deal for public sector unions. On the other hand, you know, because 28 states have right to work laws, that most of them, to some degree, you know, may have already limited agency fees.

WILLIAMSON: Mm-hmm.

PITA: Mm-hmm.

MANN LEVESQUE: I think that's kind of worth keeping in mind. So, in 22 states that don't have right to work laws, it may be the case that this is felt, kind of, more immediately for state and local union chapters, and for the people who are already operating under those collective bargaining agreements. For some state and local chapters, in one of these states, with right to work laws, there may be less -

WILLIAMSON: Mm-hmm.

MANN LEVESQUE: -- of an actual effect because they may have already been operating this way.

WILLIAMSON: Mm-hmm.

MANN LEVESQUE: One other thing that kind of comes to mind, when I think about that, though, is when we think about National Unions, so, for example, in the case of the NEA. The NEA has, you know, a National Apparatus, and there are State Chapters, and there are Local Chapters. So, because this affects Public Sector Unions, this is going to affect those National Organizations in a way that they haven't necessarily had to deal with before.

PITA: There was some anticipation of this, that the ruling would come down this way, though. I think I remember hearing some unions were already starting to curtail their budgets, and kind of plan for -- planned for this world.

MANN LEVESQUE: Yeah. I heard the same thing, and, you know, when this decision came out, a lot of the reactions from union leaders were along the lines of, you know, we've been working on, or are planning to roll out internal strategies to work on communicating what the union does, and recruiting membership, because these are new tasks that they'll have to do now, or at least they'll have to do them in a different way. So, I absolutely think that there was a lot of planning and anticipation for this outcome.

WILLIAMSON: And so, that's actually something that, in my research on the state level, last that we were discussing, what you find is that unions talk about shifting their priorities back to membership, right? Which, on the one hand, maybe that helps you keep your membership up, or reduces the decline that you're going to see. On the other hand, it limits the kind of work you do because maybe you focus, instead of on more political activities that help all working people, you're focusing more specifically on benefits for your members, right -

PITA: Right.

WILLIAMSON: -- and the sort of selective benefits that a union can provide, and, so, that really changes, I think, both the amount of money that a union might have to work with, but, also, they're prioritizing of the budget that they have.

PITA: Because previously the unions were required -- that they do have to represent all workers, regardless of whether the workers are part of the union or not, with this switch to their priorities, maybe, being focused more on the workers, or only their members, and since the unions can now no longer collect dues from non-members workers, do you think there's any chance of that, the legal requirement, that they represent everybody going away? Is that a congressional thing? Does that need a Supreme Court case? Where is that?

WILLIAMSON: I'd be surprised to see a change in that aspect of it, but when I was thinking about the workers that -- you're thinking about, "Do I maintain the members I've got? Oh, and do the work that I'm legally obligated to do, in terms of the collective bargaining for all the sort of shops where I have a union presence." Okay, so I have to keep those members.

Maybe I'm not spending as much time thinking about reaching out and running the union drive at the next factory over, right -

PITA: Right.

WILLIAMSON: -- to use the cliché example, right, but the -- thinking about getting into new parts of different industries, and then, also, there's this sort of, you know, for instance, famously, recently, teachers' unions in particular, famously have been working to protect school budgets. Some of that's about teachers' salaries, but a lot of it's about making sure that they have money for books, and all these other goods. Similarly, you might imagine that, you know, unions might campaign to improve, you know, through collective bargaining, work to improve, right, just for the people they are obliged to represent, but, you know, unions have been very big in broader city-wide campaigns, for \$15.00 minimum wages, right?

PITA: Right.

MANN LEVESQUE: Right.

WILLIAMSON: So, maybe what you might see, what I think a lot of people are concerned, you'll see, is a focus on the sort of narrow benefits for the people that unions are obligated to represent, and less, not less interest, but less energy, less money, to engage in those broader campaigns.

PITA: Or, like, the get out the vote. They do a lot of voter registration, and that sort of thing.

MANN LEVESQUE: (overtalking)

WILLIAMSON: Absolutely. Yeah, and I, you know, I saw this in Texas. I saw that are a number of groups who do voter registration, who have really relied on funding from local unions. So, it's not just the union itself that reconsidering its budget. It's all the organizations that tend to rely on union members, or union money to support their efforts, so.

MANN LEVESQUE: And one thing that I would just add to that, you know, so, I'm not a legal scholar, and so, I don't know what might happen with the requirement that unions have to represent all worker, but I think one thing that's important to note is that, at this point, you know, that law hasn't changed. So, Janus doesn't change the fact that unions are obligated to represent all workers, regardless of whether they opt in to pay this agency fee or not, and

something that I believe Justice Keagan pointed out, in her descent, is that that's kind of crux of the problem.

So, this is the classic collective action problem, where what's happened now, because people are not compelled to pay an agency fee, unions are still legally obligated to, you know, bargain on their behalf, but people, now, have no incentive, and do not have to pay for that benefit, and, so, then you have this free riding problem, and, you know, if it gets to the point where too many people opt out of paying that, now optional, agency fee, then what resources are left to provide that common good, and I think that's really, one of the foremost concerns for now, among not just union leaders, in terms of how are they going to do their job, but this is a concern for workers, right? This organization, still going to be a viable way to represent me to get, you know, the salary that I need, and health care benefits, and all those kinds of things.

PITA: Right. Vanessa, you, and -- you had two colleagues, James Feigenbaum and Alex Hertel-Fernandez. You looked at private sector unions, in particular, and you looked at, sort of, the political effects of the decline of the private sector workers. Can you talk a little about this study, sort of what you were looking at, and what you found?

WILLIAMSON: Right. So, we look at the implementation of these so-called right to work laws, across the states between 1980 and 2016, right? So, some states were already right to work at the beginning of the time period, many southern states, for instance. Some states implemented right to work laws. I think, famously, Michigan and Wisconsin recently, relatively recently, implemented those laws, and, so, what we do is we look at counties, pairs of counties that are across the state borders, that are otherwise quite similar, right, and we put together all these different pairs of counties, in every election year, from 1982, when we finished our paper, and we look at, you know, these counties that were otherwise similar. When on one side of the state line, you see a right to work law put in place, and the other side line, things are as before, what happens politically, right, and what we find, is that in presidential elections, democratic candidates do worse, between two and five percentage points worse, which is not enough to swing every state, or many states, but it is enough to swing several states. For instance, in the last election, two, you know, states that passed right to work, Hillary Clinton lost those by razor thin margins.



PITA: Right.

WILLIAMSON: So, you see a decline in support for democratic candidates, and you see that down ballot, as well, and you see a decline in voter turnout, and that declines it by about two percentage points, and there are follow on effects, in terms of who gets elected and policy outcomes as well.

PITA: That was one of the things I thought was really interesting because one can sort of expect the drop in voter turnout, general drop in support for democrats, but you found that there were fewer people from working class backgrounds, just generally, who got into the state legislatures, and obviously not everyone who works in working class is a democrat. What was behind that? Can you just talk a little bit about that effect?

WILLIAMSON: Yeah. So, I -- it's -- we don't know, yet, as much about the mechanisms as we'd like to, right, but, I think that it's a two-fold problem, right, because, on the one hand, the democratic party, which has traditionally been the party of labor, weakens, but, also, the connections between labor and the democratic party weaken, because labor isn't providing that electoral force that made the party have to pay attention, right, because when you think about parties, instead of a collection of different interests vying for attention, right, labor could turn out the voters. So, labor got democrats attention, right, and, so, you could, you know, you can see the same thing on the conservative side, you know, when churches can turnout voters, churches get the republican attention, right, and so, you're seeing two effects happening at once. Both are a decline for democrats, but also a decline in the very straight forward representation of working people, right, and it's absolutely the case, that though lower income people are likely to be democrats, in all states, as you get wealthier, you're more likely to be republican. In fact, even, I recently read this, winning the lottery makes you more likely to be a republican, which is a random intervention, right -

MANN LEVESQUE: Yeah.

WILLIAMSON: -- which, you know, we political scientist love, but yeah. So, there is a correlation with, between the income and becoming conservative, that's -- I think most people would expect, but it's not that every working-class person is a democrat, as you point out, but these sort of traditional ties between working people and the democrats, and unions as an

avenue to a political power for working people, that is something that has decayed with the union movement.

PITA: Elizabeth, I'm going to ask you to talk a little bit about some of the teacher strikes we've seen over the last year. It was a surprising move that there were several of these states that have weaker labor laws, that have right to work laws. Some even have very punitive laws against educators going on strike. We saw them in West Virginia, Oklahoma, Arizona, Kentucky, I think also Colorado, and one of the interesting things, was that, at least, a couple of these strikes generated themselves independent of the unions. Can you talk about what we saw with that, and what that means, or sort of the teacher union power in those states?

MANN LEVESQUE: Sure. Well, I think, that one lesson from these strikes, recently, from the prospective of labor union, teacher union leaders, in the wake Janus, I think that you look at that kind of more organic, grass roots organizing that occurred, as you said, in states that have, you know, right to work laws, and that's a good sign, and I think, in part, what that shows is that there are people in the same profession, who have common grievances, and who are working together to represent their shared interests to address those grievances, and that's a lot of what a union does, as well, and, so, I think that, now, of course, it's not necessarily the case that someone who participated in one of those more grass roots strikes is going to, then, decide that it is worthwhile to pay an agency fee to a union, but it also does, I think, show that, you know, there is a need for the type of work that unions do, and I think it illustrates, at least from the point of view of labor unions, that there are people out there who are interested in doing the kind of work that you're doing, but now it's just going to be incumbent on the union to convince them that what the union, in particular, offers is valuable enough, that you are actually willing to pay into that system.

WILLIAMSON: If I can jump in on that, I think that, you know, this is sort of the key question, right, because if you -- as unions have declined in America, interest in joining a union has not, right, and more than half of American workers ask if they would -- if they came into work tomorrow, and they were -- try to vote on whether to be in the union, more than half of American workers say yes to that question, right?

So, there's actually a lot of interest in union membership, despite this sort of steady

decline in actual union power, and I think that has a lot to do with these kinds of political decisions that we've been talking about.

I wanted to follow up, also, on this specific point about the collective action question because it's -- this decision has important ramifications for the capacity of workers to organize collectively with this enormous free rider problem that they've created in the public sector, but so does the other labor decision the court made this year, Epic Systems, right?

This is a decision about arbitration, which decided, and, again, this is a change to previous court decisions, decided that it's okay for arbitration agreements, in workers' contracts, to prevent workers from joining a class action suit, right? So, similarly, and this -- so, this has similar effects, that workers are going to have a harder time working together, right? So, sort of similarly, now, when you get your law and contract, and legalese that almost no workers actually read, when you get that law and contract and there's a line in there about collective action, class action suit used to be protected by The National Labor of Relations Act, and now it isn't anymore. So, there's, sort of, several ramifications, here, in terms of workers who might want to work together in a union, or through a class action law suit against discrimination, where that's going to be much more challenging.

So, I think, there's a real sort of trend in court decisions that are specifically about obliging workers to engage in politics or in legal action as individuals, as opposed to through, or encouraging workers to act as individuals, rather than as a group.

PITA: Is there anything that unions, more broadly, should take away from the strikes that happened? Was there anything, like, it can maybe be a good blue print for going forward, in terms of what you were talking about, taking a bunch of people who went, "Eh, I don't know about the union, but yes, we'll work together."

WILLIAMSON: Yeah.

MANN LEVESQUE: Yeah, I think this kind of comes back to what we were talking about earlier, about what do unions do now, and what does outreach look like, and I think that, if anything, what some of these organized protests in states, like West Virginia, Arizona, Oklahoma, Kentucky -- I think, you know, some lessons learned from that is that, kind of like what Vanessa was saying, it's not that people are opposed to working together to address

common problems. I think that the trick will be for the unions, now, and, again, this might not be all that different in states that already had right to work laws, where people didn't have to pay agency fee, but where that's a new circumstance, and maybe even, you know, in those states where right to work laws already existed, I think, that what unions are going to have to do is figure out this outreach part of it, and figure out, you know, part of that may be a communications strategy that entails, maybe, making clearer, to people they represent, what the benefits actually are that the union gets for them, maybe pointing to cases of where unions have weakened, what that's meant for workers in those areas, and, so, I think, that a lot of it is going to be, you know, I think some, almost, kind of advocacy work, maybe some education, some outreach, and also probably some listing involved, you know, if you're trying to convince people that it's worth paying for the services you're providing, then, you know, asking those people -

PITA: What they want?

MANN LEVESQUE: -- what it is that they want, I think, is an important part of that, and I'm sure that the labor union leaders are way out ahead on all of this, and this is what that're anticipating, but I would imagine that that's some of what those conversations look like.

PITA: There have been some interesting commentaries. You know, of course, a lot of people are saying, that this is the death knell of unions, whatever, but there have been a couple of more contrarian takes that say that this might actually be good for unions because it is kind of shaking up a long rut that they have been in. It will make them get more creative, and try something different, and start educating people again about why they should care.

MANN LEVESQUE: Yeah. I think on the one hand, in terms of strategy, that might absolutely be true, but on the other hand, that'll also be doing that with many fewer resources. So -

PITA: Yeah.

MANN LEVESQUE: -- you know, it's kind of innovation, you know, in the face of necessity, I think. I think it could absolutely breed, you know, creative effective strategies, but when you're thinking about cutting your budget, and you're also try to figure out, kind of, how to make up for that revenue, then I think that's just -- it's hard.

PITA: Yeah. Vanessa, I wanted to get back to that thing that you just mentioned. It's in -- it's from a piece that you wrote, almost three years ago now, about that disconnect between peoples' opinions of the good that unions can do versus how little public backlash there's been against the rise of the right to work laws, and some of these cases that have come down that are limiting the power of unions.

Why do you think that that disconnect exists, and has there been any change since you wrote that, or do you think that this might now be kind of the kick in the pants to start engineering a little more of that backlash?

WILLIAMSON: So, I think, on the one hand, there can be a self-fulfilling, or sort of downward spiral, where, as you lose political power, it's harder for you to resist the legislation that's put in place, that makes it harder for you to build power, right, and, so, I think that that's part of what you can sometimes see in these cases, but I think there's also the problem, that I think, many people are not really familiar with what an effective union can do, right? Only about 30% of public sector workers are unionized. Far, far, far, less of the private sector is unionized. So, I think it's possible that, you know, it really requires a little bit of a leap of faith, or some historical reading, to have people recognize what a different kind of working relationship could look like, like a different power dynamic between you and your employer.

I mean, the other thing that's been happening at the same time, what I think is really significant, when we think about the power differential between employers and employees, is companies have gotten a lot bigger, right? So, you might have felt that you have some bargaining power when you worked at a local shop, that was owned by someone who lived down the street, or at least in the same town as you.

Now, how much power do you have against a company that's owned across the country, or on the other side of the world, right? So, I think that there are a lot of shifts in the economy that have made it harder for workers to have a voice, both through unions and otherwise.

PITA: One of the effects of loss of union funding, as we mentioned earlier, was a lot of their money that was going into political campaigns and voter drives, and that sort of thing, but we said, those resources are now going to be going away, but one of things that we have seen in some of the recent, particularly, in this year's primaries, we're seeing a lot more campaign

funding being at the individual donor level, and that's happened over the last couple of election cycles, but I'm thinking, particularly, Beto O'Rourke is raising a lot of individually-based money, and Alexandria Ocasio-Cortez, in New York, who really, you know, they're doing this purely, an individual. Is that trend enough to, perhaps, offset some of what the union was contributing into? Do you know anything about some of those dynamics, or is it still too early to tell?

WILLIAMSON: I think it would be too early to say. I think it is easier to do almost anything with organization. So, asking individuals to do what an organization used to do is a big lift. Now, I mean, what -- I mean it is a very interesting phenomenon to watch candidates say that they will not take corporate money, right, and I think that has, in a couple of prominent cases, like a case in New York, opened some kind of flood gate of smaller donors, right -

PITA: Mm-hmm.

WILLIAMSON: -- but I don't know that every candidate can rely on that, and I also think that collective action problems are real, right? So, it can be really challenging, and, of course, the sort of final piece of that, of course, is with very high levels of income inequality in this country, right? You certainly can get a lot of small dollar donors, but there's a lot of money up at the top, right? So, you know, how much balance can you create doing that?

I mean, I've certainly seen candidates, as you pointed out, who have been making an impressive run at it, but I'm not sure that it's the same thing as actual parity between working people and much, much wealthier people.

PITA: Amongst the decline of the more traditionally unions, like as we've mentioned, like the manufacturing, and that sort of thing, there's been a rise of some unionized jobs, in some new and interesting fields, some white-collar, universities' newsrooms, some minimum wage sectors. Can you talk a little bit about where we're seeing some of this change over, and how have these changing constituencies, these changing groups of who belongs in the union, have they started changing the ways unions operate, or do you think that it will, going further down the road?

WILLIAMSON: I mean, I think it has been really striking. I mean, of course, when something happens in a media organization, it gets coverage, which is, you know, neat in its own way, of course, but, yeah. Then, we've seen a remarkable resurgence of unionization in

journalism, and there's also been a real effort on college campuses to unionize grad students, and I think that, in the case of the graduate students, I think it's a very interesting case because it's an example of what is a much broader problem, and the kind of, sort of, who do we count as a worker, and who do we count as sort of a contractor, or a student, or who do we kind of slip into a side category, right?

So, graduate students are one example of that, but I think in a sense, it's the same as what your seeing with things like Uber drivers, right, people doing, sort of, contract gig work on the side. That's a group of people, who, once upon a time, might have had a taxi medallion in the union, right?

PITA: Mm-hmm.

WILLIAMSON: So, finding ways to build collective working people's power in the parts of the economy that don't function like totally traditional jobs is, I think, absolutely at the forefront of these kinds of conversations about how to broaden the reach of union organization.

MANN LEVESQUE: And one thing that occurs to me, as we talk about this, and this may seem kind of naïve and overly optimistic, but, I think, that four sectors that are recently, or kind of on the cusp of unionizing, for them, you know, it seems to me like its probably easier for those labor movements to adapt to ruling like Janus because they can build their structure, and their system, knowing that this is the environment that they're operating in.

I would imagine that it's more difficult for unions that have budgets. They have costs, and now all of a sudden, they're losing a large share of their revenue. That kind of adjusting, I would imagine, is more difficult to do, than if, at the beginning, you can say, "Okay. We know we can't count on these agency fees, and, so, what does that mean for how we structure our organization?"

I think that, you know, for these newer movements, that's something, at least, that it won't be for them, kind of, shifting their trajectory, but they can almost build around it, or account for it.

PITA: It's easier for them while they're still smaller for them to adjust -

MANN LEVESQUE: Mm-hmm.

PITA: -- than taking a large national organization, right?

MANN LEVESQUE: Right.

PITA: Are there any examples, yet, of, like the taxi cab union reaching out to these new players, or with the teacher's unions, maybe adopting the adjunct professors who are starting to try and unionize? Are there any examples of that, yet, or talk about it?

WILLIAMSON: Well, I think, there has been some efforts in California, to legally insure that Uber drivers meet the qualifications of employees. That has been something that has been underway, and I think, more generally, that there are examples. For instance, even if it's -- just within teaching, there's has been a move in charter schools, traditionally a non-unionized teacher population.

There's been a move, a very active move, to increase the unionized population in those schools, as well. So, I think that that's definitely something that union leaders are thinking about.

PITA: What do we know about how states that are affected by Janus, the ones that aren't right to work states, how they are thinking about reacting to Janus? Are they taking any extra steps to protect their existing unions? Anything like that?

WILLIAMSON: I mean, I've been seeing articles come out of California, for sure, on this subject, and I'm from Sacramento, California, originally. So, there has been quite a lot of activity in the teachers' unions, there, trying to think about how they're going to handle this, especially because California is, of course, an enormous economy, all on its own, and likes to see itself as at the forefront of progressive politics. I think it's been very interesting to watch unions start to respond to that.

MANN LEVESQUE: One thing that I'll be looking out for, too, is in, you know, these kind of more blue states that are not right to work. One thing that will be interesting is how legislatures are responding. Are Democratic Governors going use this as an opportunity to, kind of, make their mark or signal their support of, you know, labor unions, but also, you know, the sectors that they represent? So, I think that that's possible.

PITA: Okay. So, I guess we're getting close on time. Did either of you have any sort of last thoughts about what the next step is, either for the unions, or for politicians reacting to



this? Where do we go from here, basically?

WILLIAMSON: Well, I think one thing that will be interesting is to see if union leaders do a more complete job of putting forward a positive agenda for union expansion, right, but I think they've been playing a defensive game for quite some time. You know, so, what you hear when people talk about policies, like, "Oh, well right to work is bad. So, we should change that. We should reverse that." or, you know, "Janus is going to be bad. So, we should try and do the following things to sort of mitigate that effect." but you don't hear much about what would policies that encourage unionization look like.

Well, I think that's actually not something that's really made its mark, even if it's made its mark in some policy circles, or in some union circles, I think it's not made its mark in sort of the popular consciousness, about what policy solutions might look like, as a point of comparison.

There are a lot of states where voting rights activists are on the defensive. They're fighting back against voter registration limitations. They're fighting back against cuts to early voting. There are all these -- so, there's the defensive move, but, at the same time, there's an offensive move, which is automatic voter registration, right, and I think that's pretty widely recognized by people who study that issue, or think about that issue, that both of those things are happening at once.

So, it would be interesting to see if unions can find a way to be doing the two prongs, right, to fighting defensively, where they need to fight, and fighting an offensive strategy, that kind of makes it ways into some popular thinking about what politics should look like on the left.

MANN LEVESQUE: Right. One thing that I would hope for, going forward, and this maybe hoping for too much, but I believe in us, that we can have this kind of discourse. I think that, you know, the Janus decision, I think, that reactions, you know, on the right and the left, can fall into what's now, unfortunately, this very familiar partisan reaction, and, so, on the right, you may hear people say, "This is great." Because, now, ordinary people don't have to pay to support the democratic party anymore, which is not what this decision means, but that's one interpretation, and then on the left there's, you know, on the other hand, this way of interpreting it, which is saying, you know, what this is a conservative court attacking the

democratic party, which, again, I think is not exactly, you know, a correct interpretation, but regardless of, you know, what each camp says, I think one thing that is really important to focus on, and that I hope that research and analysis, and just day to day conversations focus on is what does this mean, and what will this mean for people who currently have salaries, and benefits, and legal representation, negotiated through their union, and what is the risk of those benefits that make a real difference in everyday people's lives, so not talking about who's getting elected or not, what is the risk of changes that might happen to those benefits, and, you know, what does that mean, and what does that mean for what unions should do? What does that mean for how we think about the role that unions play? What does that mean for, you know, negotiations between employers and workers?

I think that those are really important questions, and I hope that those are not the issues that get lost in this conversation, and that we don't continue to kind of have this partisan name calling, back and forth, but that we can actually talk about, you know, what does this mean for, you know, people who are just going to work every day?

PITA: Right, the people who are educating your kids, and driving you down the road, and all of that.

WILLIAMSON: Mm-hmm.

PITA: All right, wonderful. Well, thank you, both, so much for being here and explaining this to us today, and, as always, listeners, you can go back to the website, [Brookings.EDU/intersections](https://www.brookings.edu/intersections) to find show notes from today's episode, which will include links to any related materials, and they can follow us on Twitter @policypodcast to keep on top of more of these great policy discussions. Vanessa, Elizabeth, thank you so much.

MANN LEVESQUE: Thanks very much.

WILLIAMSON: Thank you.