

What a Labor Union Is and How It Works

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March 12, 2018

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On February 26, the United States Supreme Court began hearing arguments on the *Mark Janus v. American Federation of State, County, and Municipal Employees (AFSCME), Council 31* case, which will stand as one of the most significant labor rulings in recent history.

The case is about unions and the kinds of fees they are able to collect, something that impacts millions of working people across the United States. The plaintiff, Mark Janus, a child support specialist for the Illinois Department of Healthcare and Family Services, alleges that “fair-share fees” (also called “agency fees”) violate his and other nonunion members’ First Amendment rights, because said fees may be used to support political causes or organizations with which he disagrees.

Unions give workers the power to improve their workplaces, and have a long history of creating lasting, progressive changes, from the institution of the eight-hour workday to health and safety regulations. Maybe someone in your family — a parent, an aunt or uncle, a grandparent — is in a union, or you’ve seen people talking about the successful West Virginia wildcat teachers’ strike on Twitter. But the news can all get confusing, with all the talk of bargaining and contracts and fees, so we’re here to explain what unions are, how they work, and what the outcome of this case could mean.

What is a labor union?

A labor union is an organization of workers dedicated to improving wages, hours, and working conditions within their workplace via collective bargaining to secure a union contract. The union negotiates directly with employers on the workers’ behalf and is funded by its members’ union dues, which are calculated either by using a fixed rate or as a percentage of the member’s salary.

Since the 19th century, American labor unions have fought to secure rights, protections, and benefits for their members, and since the 1930s, have been strongly aligned with the Democratic Party.

Who do unions serve?

Traditionally, labor unions have been most present in industries like manufacturing, transportation, and the public sector. Most unions focus on a specific industry, like the United Auto Workers (UAW), Writers Guild of America, East (WGAE), or Service Employees International Union (SEIU), and represent workers in both the public and private sectors. The Industrial Workers of the World (IWW), which represents workers in all kinds of industries around the world, is a unique case in that it seeks to represent all workers as a class in “One Big Union,” and does not require members to work in a formally represented workplace — which means that anyone with any type of job may join and members can join other unions as well.

Overall union membership has sharply declined since the 1970s. As of 2016, one in three public sector workers — or those working in the part of an economy that is controlled by the government — were in a union, but only 6% of private sector workers were organized, according to data from the Bureau of Labor Statistics.

However, in recent years, unions have made great strides in organizing newer industries like fast food, with the Fight for \$15 campaign, which organizes fast food workers to demand the right to a \$15 minimum wage and a union and includes thousands of workers around the country, and digital media, which has seen the Writers Guild of America, East and the News Guild organize

hundreds of workers at digital publications like *Gawker*, *Vice*, *Vox*, *Slate*, *Gothamist/DNAinfo*, *ThinkProgress*, *Thrillist*, *Mic*, and many more. (Full disclosure: The author of this piece is a member of and councilperson at the WGAE.)

Why would someone want to join or organize a union at their workplace?

Unions facilitate the process of collective bargaining, which allows an organized group of workers to sit down with their employers, address concerns, make demands, and negotiate a legally binding contract to determine their terms of employment, which includes pay, benefits, hours, workplace safety, severance, health care, family leave, diversity, company transparency, and more. It offers workers a seat at the table, and allows them to directly advocate for themselves and their coworkers. A union also provides workers with guidance, organizational resources, and can offer legal counsel throughout the bargaining process, as well as support and resources after the contract is finalized. Union members select their own officers and representatives and make decisions collectively.

While it can be difficult for an individual worker at a big company to successfully advocate for themselves, union advocates say the strength and power of an organized group of fellow workers alongside the union's backing can make all the difference. In addition, according to the UAW, union workers' wages are on average 28% higher than their nonunion counterparts.

What does it mean to go on strike?

The West Virginia teachers' strike made a ton of headlines over the past two weeks, and teachers' unions in Oklahoma and now, potentially, in Arizona may be poised to follow their lead in the coming weeks. So what does it mean to go on strike, and how does the union factor in?

A strike is an organized work stoppage that is undertaken by a group of workers as a form of protest or a tactic to pressure their employers into acquiescing to their demands. That means that, when a union declares a strike, nobody in their membership goes to work until the strike is called off or their demands are met — whichever comes first. A strike is often the result of a breakdown in contract negotiations; when neither side will budge, there are few options left for workers who are determined to win. Sometimes employers will hire outside workers to take the place of striking workers during strike actions. These outside workers (who are sometimes joined by union workers who refuse to join the strike) are referred to as "strikebreakers" or "scabs," and scorned for "crossing the picket line."

Sometimes employers will insist on adding a "strike clause" added to a union contract, which forbids them from going out on strike during the duration of the contract. When a union shop with a strike clause decides to defy the clause and go out on strike anyway, this is known as a "wildcat strike." A wildcat strike is not authorized by union leadership. Both strikes and picketing are protected activities under the National Labor Relations Act (NLRA), and workers cannot be fired for engaging in either — unless they engage in a wildcat strike. While the West Virginia teachers' strike was a wildcat strike, they knew they were taking an extra risk, but they decided to do it anyway — and won.

The West Virginia teachers were striking for higher wages and health care benefits, but unionized workers throughout history have gone on strike for many other reasons, from the Uprising of the 20,000 in 1909 that saw thousands of woman garment workers in New York City turn out to protest dangerous sweatshop conditions, to the United Mine Workers of America strike of 1946, in which coal miners hit the bricks to demand better workplace safety standards and better pay, and the 1997 Teamsters-led UPS Workers Strike, which fought for job security and pension benefits.

How do union dues work?

Union members are expected to pay dues. However, even at a fully unionized shop, any worker who is represented by a union may choose not to join the union or pay membership fees — but they are still protected under the union contract, which is hammered out during a bargaining process involving workers, union representatives, and management. The union must represent all workers equally, whether or not they elect to join.

Currently, unions in 22 states are allowed to collect fair-share fees from public sector employees who have not joined their union to cover the costs of representation and collective bargaining in lieu of full union dues. After all, it costs money to negotiate a contract — union reps need to be paid for their time and labor, and the lights at the union office need to be kept on. It may seem like a fair compromise, but not everyone is happy with the arrangement.

Why would someone want to opt out of joining their union?

There are multiple reasons why someone might not want to join a union. For example, perhaps their personal politics don't match those of their union. While the labor movement's history in general skews radical — just ask the anarchists, communists, and socialists who founded IWW — most modern unions tread a less confrontational path. The majority of American labor unions still veer to the left; most are affiliated with the Democratic or Working Families parties, and actively support and contribute funds and resources to Democratic candidates and progressive campaigns — which may present a problem for someone on the right who finds themselves presented with a union contract, especially ahead of the crucial 2018 midterms.

Janus's case is an example of this issue in practice, and revolves around the idea that one might be forced to contribute to a political cause or organization he does not support. Some people don't want to pay dues or feel that initiation fees are too high; others worry that union membership will result in acrimonious relationship with their employer or a strained, non-collaborative workplace.

Others may be ideologically opposed to the idea of organized labor. Many Republicans and conservatives are anti-union.

What are “right-to-work” laws?

People often use the term “right-to-work” in discussions (and arguments) about unions and the labor movement, and it's been in the headlines a lot recently. First off, some say the phrase “right-to-work” is inherently misleadingly: As former president Barack Obama, whose presidency

was extremely union-friendly, noted in a 2012 speech at the Daimler Detroit Diesel Plant, “What they’re really talking about is giving you the right to work for less money.”

Right-to-work laws make it legal for workers at unionized shops to opt out of joining the union and paying union fees. However, they still benefit from the union’s collective bargaining agreement, without paying dues — thereby depriving the union of income and weakening their potential influence. Essentially, these so-called “free riders” take advantage of the benefits won for them by the union but do not contribute.

These laws weaken unions’ power by draining resources, driving down wages, and lessening their ability to advocate for their members in terms of wages and workplace safety. As a result, states with right-to-work laws have higher employment-related fatalities than states with strong union membership.

Right-to-work laws can suppress working class voter turnout, shift state-level public policy to the right, and have a heavy impact on electoral results. A new study cited by *The Nation* found that, on average, between 1980 and 2016, “right-to-work laws decreased Democratic presidential vote share by 3.5 percent.”

Ever since Wisconsin’s conservative Republican governor, Scott Walker, passed the state’s contested right-to-work law in 2015, Republicans have been pushing for similar legislation in Missouri, Kentucky, and Iowa, with an eye toward an eventual federal rollout.

Why is the *Janus v. AFSCME* case so important?

The whole point of the fair-share fee is to ensure public sector workers like Mark Janus are able to avoid subsidizing political organizations they do not support, but without screwing over their unionized coworkers. However, if the Supreme Court rules in his favor, nonmembers of public sector unions will pay nothing — and the unions will take a massive financial hit. That system may be thrown into chaos, as public sector unions’ ability to fight for their workers will weaken, the Democrats will lose a significant amount of firepower, and America’s labor movement as a whole could be in big trouble.

The outcome of *Janus v. AFSCME* has the potential to affect 5 million public workers across 22 states including California, Illinois, and New York, a bloc that includes union-represented teachers, firefighters, health care workers, government employees, and police. The decision has broader potential ramifications for the entire public sector — all of whom would lose the ability to collect fair-share fees from nonunion members following a ruling in Janus’s favor — and may see the nationwide rollout of “right-to-work” laws that they’ve successfully resisted up until now. Republicans have long railed against public sector unions and organized labor, but with this case, there’s a chance to hurt labor in a big way.

Many union advocates are fighting back, though the case just started. In February, union workers across the country hit the streets for a “working people’s day of action” against right-to-work and in support of unions. However, with Trump’s pick, Republican Neil Gorsuch, on the bench and the court’s scales tipped toward the conservatives, those in favor of unions fear that the outcome is more or less decided already.

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Retrieved on 2020-04-14 from www.teenvogue.com
Kim Kelly is an anarchist columnist for *Teen Vogue*.

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