# 1AR UKRR Race 3

## Journalism

### Impacts

### XT

### DPT

#### DPT is true and overdetermines other factors---statistical analysis proves that a strong civil society is key to prevent conflict by increasing reputational losses, organizing political costs, and avoiding info asymmetries

Choi and James 25 – Choi is a professor in the Department of Political Science at the University of Illinois at Chicago. James is a Professor of International Relations at the University of Southern California in Los Angeles, CA, and Director of the USC Center for International Studies

Seung-Whan Choi and Patrick James, “Six Alternatives to War, One Solution for Peace: The Pacifying Effect of Civil Society,” The Chinese Journal of International Politics, Volume 18, Issue 1, 2025, https://doi.org/10.1093/cjip/poae023

Within scientific research on International Relations, one of the greatest waves after the demise of the Cold War concerns the relationship between regime type and conflict processes. Commonly referenced as the democratic peace, many studies affirm pacifying effects. They offer empirical evidence that democratic dyads are less likely than other types of pairs to experience conflict, notably war.1 However, critics of various kinds have proposed and tested alternative explanations for the democratic peace. Among the different accounts for the absence of war between dyadic states are media openness,2 capitalist peace,3 globalization,4 territorial borders,5 the Cold War system,6 third-party conflict resolution,7 systemic difference,8 and contract-intensive economies.9 In light of such findings, we continue to work within the tradition of conflict research designs that include democracy as an explanatory variable.

This study explores what third factor engenders a pacifying effect on international conflict. Our exploration focuses on the role of a robust civil society that facilitates collective resistance and collective action against leaders’ conflict decisions. Archetypal is German and French civil society’s involvement in anti-war movements.10 In South Korea, a robust civil society “waged intense nationwide protests against the Roh government’s decision to send South Korean soldiers to Iraq to help the United States…explored and employed new movement methods, such as one-person demonstrations, candlelight vigils, lawsuits, and cyber protests.”11 Our interest in civil society was initially inspired by Jean-Jacques Rousseau’s insight: “the essence of a society consists in the activity of its members and a state without movement would be nothing but a corpse.”12 We have also been intrigued by existing studies on the involvement of civil society in peace processes, such as the role of civil society in peacebuilding,13 international organizations and peace,14 the achievement of human security,15 enduring peace,16 quality peace,17 and social accountability.18 Between Jean-Jacques Rousseau and Hegre, Bernhard, and Teorell, we find the human rights peace proposed by Sobek, Abouharb, and Ingram and Peterson and Graham intuitive.19 These scholars show that interstate dyads with higher levels of human rights are less likely to experience conflict. The findings are straightforward: norms within a state are expressed in domestic and international behavior.20 The obvious next question is, what is the foundation for those norms? Civil society, a comprehensive way to look inside the state, emerges as the natural place to look for an answer.

We argue that a robust civil society engenders a peacebuilding effect on the grounds that it can organize a united front against belligerent leaders, solve a collective action problem in the pursuit of a common peace agenda, and take immediate action against leaders’ war decisions. We build a canonical democratic peace model as a starting point and then compare results related to civil society and each of five peace factors. We are particularly interested in evaluating whether civil society emerges as a competing cause against the democratic peace. We provide supporting evidence that the pacifying effect associated with a robust civil society outperforms that of democratic, Cold War, contractualist, capitalist, and territorial peace, respectively. The empirical results are significant to academics and policymakers and notably point toward building a robust civil society in the search for perpetual peace.

What Civil Society and Democracy Are

In this study, we view civil society as a societal force that pools together material and financial resources to process its agenda, including issues ranging from promoting animal rights to opposing war.21 One of the most defining features of civil society is that it helps “enhance [individual citizens’] ability to solve collective-action problems,” as discussed later.22 Civil society includes entities such as non-governmental organizations (NGOs), voluntary charities, and community-based organizations.23 A robust civil society is “one that enjoys autonomy from the state and in which citizens freely and actively pursue their political and civic goals”24 and therefore can form collective resistance and collective action against government misconduct that may include leaders’ decisions about international conflict. We define democracy from an institutional perspective, which is consistent with the tradition of democratic peace studies that examine the pacifying effect of citizen voices and legislative constraints on international conflict.25 Most democratic peace studies operationalize the effect of democracy based on the Polity data collection that captures democratic institutions with competitive executive recruitment, fair political competition, and limits on executive authority.26

Since we theorize that a robust civil society can organize collective resistance and collective action against leaders’ decisions, we first test whether a robust civil society exerts an independent, pacifying effect on international conflict. Second, we perform additional empirical tests, including a robust civil society and democracy in the same model, to see how each plays out. This model considers civil society and democracy to be distinctive. We expect that due to its power of collective resistance and collective action, the former outweighs the latter in reducing the risk of international conflict. We are aware that democratic peace scholars underline the efficacy of citizen voices that impose checks and balances on leaders’ conflict behavior. Yet, democratic peace scholars have not paid as much attention to the fact that democratic citizens often fall short of mobilizing their strengths due to a collective action problem. Individual citizens are atomized and act on self-interest, so they are frequently unwilling to cooperate with one another, discouraging joint action.27 We offer a theoretical argument about why a robust civil society can solve such a collective action problem and restrain leaders’ conflict behavior. Third, to evaluate the potential interplay between a robust civil society and democracy, we also test an interaction effect between the two variables.

Hegre, Bernhard, and Teorell offer pioneering research on civil society’s social accountability and international conflict;28 however, our study stands out in three different aspects.

First, Hegre, Bernhard, and Teorell present civil society as an enforcer of social accountability on the grounds that political survival hinges on support from individual activists. Our theoretical take is different from that of Hegre, Bernhard, and Teorell because we underscore three novel functions of civil organizations that help build a robust civil society. We maintain that a robust civil society reduces the likelihood of international conflict because it is more effective than individual citizens in organizing a united front against belligerent leaders (collective resistance), solving a collective action problem in the pursuit of a common peace agenda (effectual collective action), and taking immediate action against leaders’ war decisions (immediate collective action).29 Armed with these three societal collective powers, a robust civil society has the ability to impose high levels of audience costs on the top leadership in two states within a dyad that may otherwise be prone to interstate conflict. The literature on conflict processes has not yet identified the preceding three key features of a robust civil society, notably in combination with each other.

Second, Hegre, Bernhard, and Teorell operationalize the theory of social accountability via the level of civil society participation. We operationalize our civil society theory with the degree of civil society robustness. This operationalization shifts the focus of inquiry from civil society participation to civil society robustness. While the former considers only participation rates of civic organizations, the latter concerns whether civil society is robust enough to have full autonomy from the state against which its members freely, collectively, and timely pursue their political goals. This shift of focus is necessary because the concept of civil society participation does not address how individual activists overcome problems of collective action, when they have enormous incentives to free ride under repression. Simply put, we argue that it is a robust, not merely participatory, civil society that can effectively enable powerless individuals to engage in collective resistance and action against leaders’ conflict-related decisions. We evaluate how civil society robustness plays out in the context of the canonical research design of the democratic peace.

Third, we offer a direct comparison of civil society peace versus five major peace theories (democratic peace, Cold War peace, contractualist peace, capitalist peace, and territorial peace). Below is our elaboration on three overlooked but pivotal functions that a robust civil society offers toward peaceful conflict resolution: organizing power, a solution to collective action problems, and the power of immediacy.

Civil Society and International Conflict

Since we view a robust civil society capable of mobilizing peace-seeking individuals and civic organizations with a minimal collective action problem, we project it as a potential agent of peace. A robust civil society consists of a large number of individuals and organizations, so some of them may push foreign policy in an aggressive direction. However, a robust civil society can harness or subdue their aggressiveness as it becomes a united front against the state. This is because it can put through its policy agenda with support from a majority of peace-loving members. This reasoning is consistent with Ryckman’s findings: civil society is, most of the time, able to enforce nonviolent discipline as only “20 percent of nonviolent movements escalate to using violence as their primary tactic at some point during the campaign.”30 As a rallying point for individuals and organizations, civil society contributes to successful collective resistance and collective action.31 We later detail why a robust civil society possesses, over and beyond individual powers, the ability to mobilize a united force against belligerent leaders, pursue a common peace agenda even in the face of a typical collective action problem, and take immediate action against leaders’ war decisions.

Organizing Power

A robust civil society has the ability to produce a great degree of organizing power. The literature on democratic transition reveals the organizing power of civil society since it “features a mobilized civil society as the critical actor in the breakthrough to democracy.”32 A robust civil society as a potentially unified voice offers a powerful representation of any given person, over and above what could be achieved on an individual basis. It provides what individual, unorganized citizens cannot achieve, effectively mobilizing the collective interests of the public vis-à-vis a state’s war-related decisions. A particular advantage of civil society organizations (CSOs) over unorganized individuals is inferred from a fable of Aesop: “Sticks in a bundle can’t be broken, but sticks taken singly can be easily broken.” The same logic applies to people who are organized in civil society and demand peace over war together. Thus, a robust civil society should be considered as, collectively speaking, a process of effectively and collectively raising a united voice vis-à-vis the state’s conflict behavior.33

In times of international crisis, a robust civil society has been able to organize anti-war movements that succeeded in some instances in either preventing or reversing government action. Canadian public opinion and anti-war activities, to cite one recent example, put very severe limitations on involvement in the Iraq War of 2003.34 Means toward change can include “art projects, concerts, and other creative ways of reaching out to the wider public,” along with more intense efforts such as “mass protests at the use of military force or demonstrations in favor of peace processes.”35 Civic organizations engage in activities such as advocacy, protest, and monitoring and thus impose potential audience costs to induce government responsiveness to popular preferences. The observation that the network of voluntary organizations with complementary, peace-compatible interests expands to counter the power of the state is vitally important. The observation highlights a high degree of organizing power by civil society that outweighs the mobilization power of each individual citizen in protesting against leaders’ war decisions.

A Solution to Problems of Collective Action

Given that “the members of [civic organizations] solve problems of collective action,”36 a robust civil society is a more powerful pacific agent than the well-known peace enforcer—individual citizens—that the democratic peace literature has emphatically underscored. Presidents and prime ministers are expected to formulate foreign policies that reflect the interests of citizens. In this regard, Kant remains on target: citizens are very cautious about an escalation of conflict because “this would mean calling down on themselves all the miseries of war.”37 Yet, individual citizens lack a ready organization. They lack the mobilization power to express demands as a unified and formidable force effectively. Most importantly, due to the basic collective action problem, their mobilization is not as effective as Kant envisioned long ago. Since individual citizens are concerned with their own immediate material gains rather than public goods, widespread mobilization of individual citizens is less likely.38 For protests to succeed, individual citizens must overcome incentives toward non-participation—to forego short-sighted thinking in favor of the public good of achieving peace.

Consider citizens opposed to war in the context of the classic collective action problem noted earlier.39 A significant disadvantage of an individual citizen aspiring to protest activity is the need for financial support.40 Participation in anti-war protests cannot occur unless meals, transportation, and possibly other resources are provided. If demonstrations are to be sustained, monthly rent/mortgage and grocery and utility bills must be paid. Those living paycheck-to-paycheck face the most intense pressure to limit or even eschew commitments outside of work. Some also must cope with either personal illness or that of family members.41 Additional resource-related considerations, which have been understood to exist for a long time and apply regardless of personal income level, are loss of free time and fear of disturbances.42

The collective action problem becomes more acute among individual citizens when the incumbent government implements restrictions, such as curfews, surveillance, limits on assembly, preventive arrests of leaders, and infiltration, and engages in physical integrity violations, such as disappearances and political imprisonment.43 By harassing and intimidating individual protesters, the incumbent government imposes higher costs. Accordingly, individual protesters must decide whether their participation is an “affordable” activity in terms of costs compared to benefits that will accrue only if the activity succeeds.44 Given high expected costs, the default position is for individual citizens to eschew protests.

CSOs can facilitate collective action by maintaining or increasing motivation and/or removing barriers to protest.45 For example, these organizations can rely on their membership fees and emergency funds to mobilize individuals. This is true, especially for civic organizations with mandates to support anti-war protesters financially. A robust civil society can offer what individual, unorganized citizens cannot afford, effectively financing the collective interests of the public vis-à-vis war decisions of political leaders. Furthermore, a robust civil society can foster solidarity among individual members who would otherwise feel isolated due to government repression and thus forgo participation in collective action. All these civic activities are facilitated by the rise of social media as a platform for opposition to the government, as revealed, for example, in a study of political communication in Egypt.46

Power of Immediacy

A robust civil society, moreover, can use the power of organizational immediacy—acceleration of a collective and critical response to unwanted involvement in international conflict. If individual citizens wish to punish incumbent leaders for war involvement through voting, they must wait for the next election cycle.47 Thus, in the time before the next election, leaders who have waged war may have sufficient time to sway public opinion in their favor and remain in office. For example, US presidents have multiple years to manipulate or embellish their foreign policy performance. Leaders’ manipulation is likely to provide incomplete or distorted information to citizens. Under those circumstances, “citizens do not have sufficient information to evaluate the incumbent governments, [so] the threat of not being reelected is insufficient to induce governments to act in the best interest of the public.”48 In international relations, electoral accountability—which the democratic peace literature promotes as the power of citizen voices—may be ineffective in reducing the risk of international conflict. Compared to individual citizens and electoral politics, the degree of pressure incumbent leaders feel from civic organizations can be much more immediate and intense. With its established networks and financial resources, a robust civil society has the ability to act quickly, which is beyond the ability of individual, unorganized citizens, immediately raising the stakes against the war decisions of political leaders. It is notable that numerous dissident groups that have organized in past conflicts are able to “tap into their existing social organizations” if a new round of protest seems in order.49

Who else can fill the vacuum when individual citizens fail to constrain leaders’ war decisions? Institutional constraints (especially by the legislature) that are imposed on leaders’ war-related decision-making should, in theory, work in times of international crisis.50 However, the real world often deviates from the ideal type of political institution. Presidents and prime ministers are capable of exploiting partisanship to persuade their party members while engaging in political manipulation to deflect the opposition from the other side. The power of exploitation and manipulation enables top leaders to dodge a bullet.51 Thus, when leaders are unwilling to abide by institutional rules, democratic checks and balances are unlikely to work in the ways originally designed and intended. In this scenario, chief executives are likely to be able to govern unconstrained by the legislators’ preferences.52

We argue that a robust civil society provides a unique role in constraining the conflict behavior of leaders because it can take advantage of organizing power, a minimal collective action problem, and the power of immediacy, enabling it to articulate and convey peace preferences collectively (e.g., mass organized protests). Among the three functions, we particularly note that a robust civil society is effective in discouraging individual defections in collective action and, consequently, able to push through its peace agenda against bellicose leaders continuously. Although leaders may find a way to circumvent the actions of individual citizens and legislators, it is hard to ignore a well-organized civil society armed with a great deal of mobilizing resources. Compared to the individual power of citizens or legislators, the collective power of civil society is more likely to amplify audience costs imposed on leaders’ behavior in times of international crisis. Domestic audience costs lock leaders into their stated positions on how to deal with a rising conflict, increasing reputational losses if they are caught bluffing, and thus leaders are less likely to back down after making a threat.53 When leaders face higher levels of audience costs generated by the speedy action of a robust civil society that has little to no chance of falling victim to problems of collective action,54 they are more likely to credibly commit to policies that signal their true intentions and thus avoid the kind of escalation that can stimulate an interstate crisis or even an interstate war.

#### **The tendency towards democratic peace is biological and five times stronger than the link between smoking and lung cancer**

Johnstone et al 24 – Department of Zoology, University of Cambridge

R. A. Johnstone, K. L. Hunt, M. Patel, D. P. Croft, D. W. Franks, P. A. Green, F. J. Thompson, M. A. Cant & D. W. E. Sankey, “The evolution of democratic peace in animal societies,” Nature Communications, 03 August 2024, https://www.nature.com/articles/s41467-024-50621-5#Sec1

In human societies, a dominant explanation for variation in interstate conflict is the democratic peace hypothesis, which proposes that democracies are less prone to initiating interstate conflicts than autocracies because shared decision-making acts as a restraint on warmongering (or exploitative) leaders8,13,15,16,17,18,19,20. This hypothesis has received widespread empirical support21,22,23,24. For example, a recent analysis of patterns of conflict among 186 countries over a 42-year period found the statistical link between democracy and peace to be five times stronger than that between smoking and lung cancer24. Until now it has been assumed that democratic peace relies on uniquely human institutions25,26,27. However, in principle the logic of democratic peace could apply to intergroup conflict among any biological groups that exhibit shared or collective decision making, suggesting that the hypothesis may have much broader scope across other taxa.

Here, we use evolutionary game theory to explore the whether the logic of democratic peace can be used to explain variation in intergroup conflict in animal societies, in the absence of uniquely human institutions. A large body of literature now demonstrates that collective movement decisions in animal societies can vary on a continuum from being unshared (i.e., dictated by leaders28,29,30,31,32,33,34;) or shared across the group (i.e., democratic34,35,36,37,38,39,40,41). These democratic decisions are observed when the majority can influence group movements more than any one individual or subset of individuals. Shared and unshared collective movement decisions could translate into collective decisions to initiate conflict too. For example, if a leader was motivated to fight another group, it could lead its group in a hostile move towards that rival’s territory. Equally, in a shared decision-making context, if the majority of a group prefer to avoid a fight, they may collectively form a consensus to retreat and evade the rival. Both intergroup conflict and collective movement decisions are observable across many taxa, from bacteria42,43 to primates33,35,44, and therefore collectively deciding whether to fight could be, in theory, achievable by a wide range of social organisms.

#### C. Autocracies cause it.

Reiter and Stam 22 – Professor of Political Science at Emory, Ph.D. in political science from the University of Michigan

Dan Reiter; Allan C. Stam, Professor at University of Virginia, Ph.D. in Political Science from the University of Michigan, “Why democracies win more wars than autocracies,” The Washington Post, 03-31-2022, https://www.washingtonpost.com/politics/2022/03/31/ukraine-democracies-war-putin-russian-losses/

Autocrats start risky wars

Three historically consistent patterns have emerged in the war in Ukraine. First, autocracies are more likely than democracies to start risky wars they go on to lose. Dictators are more willing to initiate high-risk wars because they know they can crack down on political opposition and remain in power if the fight goes badly.

Iraq, for instance, launched two disastrous invasions of Iran and Kuwait. Even so, Saddam Hussein crushed internal uprisings to stay in power. Democratic leaders often, but not always, avoid these kinds of military failures, fearing the domestic electoral backlash of wars gone wrong. This is why democracies tend to win their wars — and why they wage shorter wars with fewer casualties.

#### Internal Strife — authoritarian regimes are in constant tension and prone to collapse.

Leyva 25 — Ph.D. in Political Philosophy (Université Paris Sciences et Lettres). Associate Researcher at the University of Montreal, specializing in political theory and pluralism

Karel J. Levya. “The Hidden Fragility of Authoritarian Regimes”, Politics and Rights Review. 6/24/25 https://politicsrights.com/the-hidden-fragility-of-authoritarian-regimes/

Moreover, dictators live in a constant state of tension regarding their inner circles. The elites who occupy these spaces are often a double-edged sword. On one hand, they are critical for the administration of the regime, responsible for implementing policies and maintaining order. On the other hand, these individuals are also closest to the dictator and thus pose a significant risk for potential betrayal. Dictators often employ a complex web of incentives and disincentives to keep these elites loyal. This can include everything from financial benefits to threats against their lives and families.

However, the equilibrium of this internal power structure is delicate and subject to various stressors. Economic downturns, exposure to liberal ideas, or even personal grievances can provoke elites to reconsider their allegiance. Additionally, if a dictator starts to appear vulnerable—perhaps due to public unrest or external pressures—elites might calculate that their long-term interests are better served by abandoning the sinking ship.

### Warming

#### Democracies are comparatively better at solving warming.

Dzido and Comerford 25 – Research Associate at the University of Strathclyde, U.N. Sustainability Researcher, Ph.D. in Economics

Slawomir Dzido; David Comerford, Lecturer in Economics at the University of Strathclyde, Ph.D. in Economics, “Can autocracies save climate?” Strathclyde Discussion Papers in Economics, January, 2025, https://strathprints.strath.ac.uk/92880/1/Comerford-Dzido-SDPE-2025-Can-autocracies-save-climate.pdf

Conversely, more democratic economies push for higher societal consumption. This results in smaller extractions from the society and lower deadweight losses. Therefore, democratic regimes possess more resources that are used for investment. This logic concerns both the emission-heavy investment and investment in renewables: compared to autocracies, democracies would invest more in both capital types. Considering the ratio of emissions to output, however, higher levels of democracy are characterised by a less emission-intensive production.

We also analyse the impact of democracy and climate shocks. Considering the former, a positive regime shock contributes to more emissions. However, the associated increase in brown investment is smaller than the increase in green investment. Thus, democratisation stimulates a slightly greener capital mix. Regarding the climate shock, we find that democratic economies are better equipped to limiting emissions (although, cumulatively, they still emit more). Specifically, they decrease brown investment to levels comparable with autocracies and increase investment in renewables significantly more. Therefore, democracies maintain higher economic growth while featuring a greener capital mix in the long run.

Lastly, we show that timing is essential to the effectiveness of limiting emissions. If policymakers are aware of more significant climate consequences early on, it becomes clear that democracies produce fewer cumulative emissions by switching to renewables more swiftly. Overall, because autocracies are inefficient in the deadweight loss sense, such governments prefer more productive (i.e. brown) investment. Moreover, democratic policymakers - by caring about their citizens’ future consumption - internalise prospective climate damages to a greater extent.

#### No warming solvency---Trumpist autocracy worse.

Richir 24 – Environmental journalist

Camille Richir, "Donald Trump’s election, an earthquake for climate policy", La croix international, 11-8-2024, https://international.la-croix.com/laudato-si/donald-trumps-election-an-earthquake-for-climate-policy /

“Drill everywhere,” Donald Trump repeatedly proclaimed during his campaign rallies. This pro-fossil fuel slogan epitomizes his platform: the Republican Party candidate, elected November 6, as the next President of the United States, intends to lift environmental restrictions on fossil fuel production. Openly calling climate change a “hoax,” he has made clear his intent to reverse the energy transition measures implemented by the Biden administration.

This has sparked significant concern at a time when atmospheric temperatures are at an all-time high. The United States, the world's largest producer of hydrocarbons, accounts for 11% of global greenhouse gas emissions despite having only 4.2% of the world’s population.

“The election of a climate change denier to the U.S. presidency is extremely dangerous for the world,” responded Bill Hare, physicist and former author of the IPCC report. “The weakening of U.S. domestic action will jeopardize efforts to limit warming to 1.5 °C,” one of the targets set by the Paris Agreement, which was already seen as almost out of reach.

Withdrawal from the Paris Agreement

The U.S. withdrawal from the Paris Agreement was one of the first measures Donald Trump adopted during his initial term in 2016. His Democratic successor, Joe Biden, rejoined the accord in 2021 and committed the country to reducing emissions by 52% by 2030, compared to 2005 levels. However, a Republican campaign spokesperson has already announced that the United States would again exit the treaty if Trump won, undermining those targets.

Trump is also intent on boosting hydrocarbon production, promising “cheap energy” to voters. His previous term was marked by reduced environmental regulations and expanded drilling on federal lands, leading to a substantial production increase.

He has also stated his intention to roll back regulations on methane emissions—a potent greenhouse gas—implemented by Joe Biden, as well as lift the moratorium on new liquefied natural gas (LNG) export terminals. Additionally, it is likely he will attempt to undo tighter emission standards for gas power plants and vehicles set by the outgoing administration.

Threat to investments in energy transition

Trump has also pledged to “cancel all unspent” funds from the Inflation Reduction Act (IRA), a major piece of legislation from his predecessor that involved massive investments in the energy transition. This could put funding for renewable energy projects and tax credits for electric vehicle purchases at risk, potentially deterring investors lacking policy stability.

## Models

### SUpervolvanoces – 1AR

## Countercycle CP

### Top---1AR

### Fails---1AR

### Certainty—1AR

#### Even the perception of potential liabiltiy is sufficient to ruin solvency.

Vincent et al. 25 – Professor at Simon Fraser University; Professor in the School of Information at the University of Texas at Austin.

Nicholas Vincent, Hanlin Li, and Matthew Prewitt, “Collective Bargaining in the Information Economy Can Address AI-Driven Power Concentration,” Arkiv, 06-12-2025, https://arxiv.org/pdf/2506.10272

Fundamentally, CBI currently faces legal, technical, and social challenges to materialize. Legal concerns may in fact be the most foundational (and hence feature prominently in our suggestions): collective bargaining arrangements at a large scale – despite actually mitigating a stark power imbalance between AI builders and information producers – may be perceived as anticompetitive, and if so, information producers may hesitate to organize due to fears of antitrust consequences. As such, policymakers should prioritize expanding permissible coordination on the information production side, or clarifying CBI’s permissibility under anti-trust laws.

### Perm---1AR

### No Spillover---1AR

### AT: AI---1AR

## Enrichment CP

### Pdb---1ar

### Antirtust key---1AR

#### Journalists will be prosecuted under federal antitrust law without the plan. AND even if not, they’re definitely chilled, which dooms solvency.

CC 21 – Representatives from a variety of groups, including several journalism unions.

Creators Coalition, “Re: Making Competition Work: Promoting Competition in Labor Markets,” Creators Coalition, 12-20-2021, https://nwu.org/wp-content/uploads/2022/01/CREATORS-COALITION-FTC-DOJ-20DEC2021.pdf

In today’s marketplace, these workers face myriad challenges, and the Federal Trade Commission and the Department of Justice’s inquiry into the intersection of antitrust and labor law casts much-needed light on these struggles.

Antitrust laws, as well as our members’ lack of collective bargaining rights, directly affect our members’ ability to earn a sustainable living through their creative work. In most creative fields today, industry consolidation and the domination of a handful of online distributors has vested excessive market power in the purchasers, publishers, and distributors of creative works, resulting in a grotesquely imbalanced marketplace that negatively impacts the advance of both commerce and culture to the detriment of creators and consumers alike.

The result is that these few and dominant corporate monopsonies are able to force unfair terms on individual creators and extract from the marketplace far more than their fair share, while the individuals who labor to bring creative work into the world are offered unfair terms, which they generally accept because they cannot hope to even minimally profit from their work otherwise. Meanwhile, smaller entities that try to compete with the monopsonies and attract talent with more favorable terms inevitably fail because they cannot sustainably compete with the dominant firms. And once the outsize player(s) in a particular creative industry adopt new terms that disfavor the creators, their midsize “competitors” are quickly forced by marketplace necessity to follow behind. This race to the bottom leaves creators with no choices but the swallow the newer, increasingly unfair terms, or to abandon their careers to pursue other ways to earn a sustainable living. Creators who attempt to attempt to escape the monopsonies in their sectors by distributing on their own work face an equal or greater imbalance of bargaining power in dealing with the handful of dominant digital distribution and monetization platforms.

While the specifics differ from industry to industry, many creative professionals do not even earn the equivalent of minimum wage, while their publishers and distributors demand more and more exclusive rights for the same amount of compensation, to the point that most creators can no longer sell rights for different uses to separate entities (and thereby earn additional fees), as was contemplated by the 1976 Copyright Act. As a result, in the last decade or so, freelance creators’ pay in most sectors of the creative economy has decreased dramatically, even as the revenues produced for others by the use of their works has skyrocketed. For instance, authors used to be able to sell audio books to audio book publishers as a way to earn additional money. Now, most major book publishers demand audiobook rights coupled with the book publishing rights, increasing the publishers’ income streams while depriving creators of their own bargaining and earning opportunities.

Enormous downstream pressure from internet monopsonies and monopolies has shrunk the number of buyers (and competition) for creative works. This lack of competition has of course increased the bargaining power of representatives and middle marketers, leading in turn to a gradual erosion of contractual protections, benefits, and income for creators. This trend, as shown below, extends across the various creative sectors. What’s more, the same internet platforms that disrupted and reconfigured the markets with complete impunity are now also creating their own publishing and production entities, directly competing with established publishers, record companies, image licensors, self-published creators, and other businesses engaged in artistic and cultural endeavors. These conglomerates then favor use of their own works on their platforms while increasing the pressure on creators to acquiesce to diminished terms of remuneration, thus further artificially depressing earning power.

Much has been made of the recent legal protections provided to “gig” workers in today’s economy, but creative freelance workers are the original underpaid gig workers—they work on a freelance basis for a defined set of publishers and distributors that provide standard contracts and low pay. Like traditional employees, these workers earn their livings by providing labor to the companies that hire them; they are not on an equal footing to negotiate the terms on which they provide services and licenses. Publishers and distributors generally, and increasingly, give individual creators contracts of adhesion to sign on an essentially takeit-or-leave-it basis, with little or no ability to negotiate better terms. Parity will not be achieved in these labor markets unless and until the individual creators in each field are clearly allowed to negotiate and act collectively with their de facto employers: publishers and distributors.

The labor and antitrust laws have been applied to creative workers as though they are businesses with the ability to negotiate freely and on an even footing with the buyers of their services and creative works – a marketplace fiction with economically lethal consequences. Since many creative professionals work under independent contractor agreements, and are classified as independent contractors rather than employees, they do not have the collective bargaining rights and other common employment benefits and face potential liability under the antitrust laws from acting together, in concert, to say “no” to certain terms, demand better pay, or boycott bad actors.

The members of our organizations desperately need the ability to collectively demand better treatment and terms for their work from those they work for. They need the ability to act together to say “no” to certain terms, demand minimums and better pay, and to boycott bad actors without risking suit for antitrust violations.

This is our coalition’s top legislative priority in the near term. As such, we have drafted suggested legislative changes to the NLRA, a free-standing antitrust exemption bill, as well as amendments to the PRO Act, should it become a potential candidate for enactment at some point in the future. Each of these proposals would give creative professionals the leverage they need to negotiate more fairly in a market dominated by a few large companies and internet platforms for whom the playing field is outrageously and favorably tilted. We respectfully ask that you consider our proposals, and work with us to help craft legislation that will bring more parity to the freelance creative workforce. In short, we seek your help in closing what is now a grotesque value gap between the pittance in remuneration earned by the creators of artistic works, compared with the billions of dollars in revenues and equity value gleaned by those who dominantly market and distribute such works to the public.

#### Even the perception of violating the law kills solvency.

Kendrick 13 – Professor of Law at the University of Virginia School of Law.

Leslie Kendrick, “Speech, Intent, and the Chilling Effect,” William & Mary Law Review, 04/2013, https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=3481&context=wmlr

2. How Chilling Works

The question arises why legal rules not directed at protected speech might nevertheless chill such speech. Chilling may arise from different sources, foremost among which is uncertainty in the legal process.91 Uncertainty may stem from ambiguous rules or erroneous applications. Either of these may make a speaker fear that he will be held liable for speech that should properly be protected. The closer his speech is to the line between protected and unprotected, the more pronounced this uncertainty will be.92 Given the existence of both ambiguity and error, would-be speakers of marginal statements might well decide that they would prefer not to speak rather than to risk liability. Speech that is actually protected will therefore be chilled.93

It is worthwhile to examine this description in more detail. The mechanisms of chilling are diverse, and some so distinct as to have their own labels. The most prominent examples are vagueness and overbreadth.94 The doctrine of void-for-vagueness is partly explained on chilling grounds.95 A vague law creates uncertainty as to its scope; speakers who would otherwise engage in protected speech accordingly self-censor. Although vagueness is a general due process issue, its special significance in the First Amendment area is consistent with the conception of free speech as an affirmative value.96

Similarly, one chief explanation for the First Amendment doctrine of overbreadth rests on the chilling effect. An overbroad law is invalid not because it incidentally chills protected expression but because it directly reaches protected expression: hence the term “overbroad.” The chilling effect comes in as one explanation for why unprotected speakers—those who would have been reached by a properly drawn law—nevertheless may challenge the overbroad law.97 They may do so, according to this account, because the law is chilling would-be speakers of protected expression who stay silent to avoid prosecution but thereby lose the opportunity to challenge the law.98 The overbroad law essentially exerts a chilling effect on its own appropriate judicial review, the remedy to which is a special standing rule.99

But chilling also arises outside the context of these doctrines. A law that is not void for vagueness may still contain ambiguities, and even the clearest rule may be applied in error. These circumstances may make speakers uncertain of a law’s application. This uncertainty may translate into a variety of risks, any of which may cause a speaker to remain silent. For example, a speaker may be deterred • by the risk of wrongful criminal conviction and sanction;100 • by the risk of wrongful liability in tort for damages or other civil remedies;101 • by the risk of losing benefits to which he is entitled;102 • by the litigation costs of defending himself in criminal, civil, or administrative procedures, regardless of their outcomes;103 • by the personal and reputational costs of defending against a criminal, civil, or administrative proceeding, regardless of its outcome;104 • by the costs of obtaining legal advice prior to speaking;105 or • by the threat of investigation or surveillance, whether or not it results in legal proceedings.106

### Certainty---1ar

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