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God's lawyers? The Christian Right at the European Court of Human Rights

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ABSTRACT

Extant scholarship explores the activities and tactics of the transnational Christian Right at international organizations (IOs). However, the European Court of Human Rights (ECtHR), the Council of Europe's judicial organ that is tasked with interpreting the European Convention on Human Rights, has received comparatively little attention. This article addresses this oversight by exploring the strategies that the Christian Right employs vis-à-vis the ECtHR. Combining insights from work on legal mobilization and the legitimacy of IOs, I argue that the Christian Right plays a "double game" at the ECtHR. On the one hand, it works *through* the ECtHR by attempting to influence its jurisprudence. It primarily does so by invoking the "margin of appreciation" in its litigation and third-party observations. On the other hand, Christian conservatives employ a delegitimation strategy to work *against* the ECtHR. To support this argument, the article draws on official reports, press releases, *amicus curiae* briefs, and news articles to compare how two prominent legal advocacy organizations – ADF International and the European Centre for Law and Justice – position themselves vis-à-vis the ECtHR. Together, their activities signify a reactionary attempt to make the ECtHR more amenable to morally conservative interests.

KEYWORDS European Court of Human Rights; legal mobilization; Christian Right; anti-gender; delegitimation

HISTORY Received 27 October 2023; Accepted 19 July 2024

Introduction

Since ours is fundamentally a legal battle, our primary aim is to recruit, if we may say so, and train attorneys prepared to fight in the courtrooms for people of faith around the world [...] We are here to win, seeing a day when our legal systems and our cultures, now in so many ways so set against the Truth of God, are transformed to protect the sacredness of life, marriage, family, and religious liberty. – Alan Sears, Chief Executive of the Alliance Defending Freedom (Carosa 2014)

Over the years I have seen the increasingly ideological development of its case law on social issues. [...] The [European Court of Human Rights] has become a

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“Totem”; it was important to break the myth and show the politics behind the smooth *façade* of the institution. – Grégor Puppink, Director of the European Centre for Law and Justice (Puppink 2020a)

For over two decades, evangelical organizations based in the United States (US) have been active in Europe. One of their main targets is the European Court of Human Rights (ECtHR), the judiciary organ of the Council of Europe that is tasked with interpreting the European Convention on Human Rights (ECHR). In 1998, the American Center for Law and Justice (ACLJ) established a European subsidiary. This branch, the European Centre for Law and Justice (ECLJ), is headquartered in Strasbourg, where the ECtHR sits. Only a short stroll along the quays of the River Ill separates the ECLJ’s office from that of a likeminded organization. According to ADF International ([n.d.c](#)), the international branch of the Alliance Defending Freedom (ADF), their Strasbourg office “puts us at the forefront of European decision-making.”

Both organizations seek to influence the behavior and jurisprudence of the ECtHR on matters of religious freedom, family law, and sexual and reproductive health and rights. As such, the two organizations are European expressions of the “Christian conservative legal movement” that has sought “to promote and reinforce a vision of law rooted in Christianity and biblical principles” in the US since the creation of Regent University School of Law in 1986 (Wilson and Hollis-Brusky 2018, 836). They work alongside home-grown, national-level organizations such as the Italian Movimento Per la Vita, the British Society for the Protection of Unborn Children, and the Polish Ordo Iuris Institute. What sets ADF International and the ECLJ apart, however, is the size of their coffers and the regularity with which they target the ECtHR (Datta 2021). This makes them especially prominent members of the Christian conservative legal movement in Europe.

These advocacy organizations have decided to focus on the ECtHR because of its authoritative jurisprudence. As a senior counsel for ADF International (2018a) explains, the ECtHR’s binding rulings have a “tremendous amplification effect,” so that favorable rulings “can impact 47 countries for the better.”¹ The official *Rules of Court* grant access to civil society groups, both as claimants and as third parties or *amici curiae* (ECtHR 2022). Intuitively, then, the Christian Right should take advantage of this opportunity to shape the direction of European human rights law. This is all the more important because case law reveals a progressive, if uneven, trend; the ECtHR increasingly rules in favor of lesbian, gay, bisexual, trans, and intersex (LGBTI) rights and gender equality (Helfer and Voeten 2014; Radacic 2008).² The development concerning reproductive rights is more checkered, but here, too, strategic litigation by women’s groups is proving ever more successful (Nowicka 2011). These victories by progressive advocates in Strasbourg demand that the Christian Right take the ECtHR seriously.

Yet the ECtHR's relevance does not explain *how* moral conservatives respond to the ECtHR. This article therefore asks what strategies the Christian Right has employed in Strasbourg. Extant scholarship has little to say on this question. While an excellent, and rapidly expanding, literature analyzes the activities of conservative and religious advocacy groups at international organizations (IOs), most studies focus on the European Union (EU) and the United Nations (UN) (Buss and Herman 2003; Chappell 2006; Cupač and Ebetürk 2020; Mos 2018). The ECtHR, in turn, has received scant attention (Harms 2021; Relaño Pastor 2021; Yamin, Datta, and Andión 2018). Studies of the ECtHR, moreover, have predominantly looked at isolated cases, such as *Lautsi v. Italy*, that were politically consequential (Annicchino 2011, 2021; Bob 2014). This article contributes to this literature by analyzing the activities of the transnational Christian Right's most visible organizations in Strasbourg: ADF International and the ECLJ.

The article draws on two strands of literature to flesh out the Christian Right's tactics: work on legal mobilization by social movement scholars, and international relations (IR) scholarship on the (de)legitimation of IOs. Specifically, I argue that the Christian Right plays a "double game" at the ECtHR. On the one hand, movement organizations engage in conventional legal advocacy. They act "through the legal system to spur changes to society" (Bennett 2014, 83). Conservative advocacy groups behave just like their adversaries; they represent clients and issue third-party interventions. Importantly, much of the Christian Right's legal mobilization revolves around the "margin of appreciation." As this doctrine grants member states leeway when implementing the ECHR, the Christian Right invokes it in the hopes of convincing judges to respect national sovereignty in matters of public morality. On the other hand, Christian Right organizations employ the strategy of discursive delegitimation (Uhlen and Verhaegen 2023). They depict the ECtHR as they see IOs in general (Cupač and Ebetürk 2020): as a bastion of liberalism and progressivism. Such discourse calls into question the ECtHR's neutrality and subsequently undermines the authority of its jurisprudence. The double game, in short, sees the Christian Right acting both *through* and *against* the legal system.

Both ADF International and the ECLJ play this double game. Neither actor holds the ECtHR in high regard. Thus, while one member of ADF International's Advisory Council complains that the ECtHR advances "secularist values at the expense of religious freedom" (Binchy 2017, 7), a spokesperson for the ECLJ speaks of "ideological collusion between judges and NGOs [non-governmental organizations]" (Puppink 2020a). The empirical analysis, however, reveals a difference in emphasis. The opening quotations already provide a glimpse of this distinction. ADF International, on the one hand, is committed to fighting in the courtroom and to training a new generation of conservative lawyers; in other words, it primarily relies on legal

mobilization. A main objective of the ECLJ, on the other hand, is to break down the ECtHR's façade of neutrality. The organization has even launched a smear campaign against the ECtHR, demanding a fundamental overhaul of the institution, including retrials of the ECtHR's "most problematic judgments" (Puppink and Loiseau 2020, 25). The ECLJ thus prioritizes the delegitimation of the ECtHR. This difference in emphasis notwithstanding, both organizations set up shop in Strasbourg in a last-ditch effort to reclaim the ECtHR. Alan Sears' words clearly indicate the redemptive nature of their shared mission; the ECtHR must be "transformed" from a progressive institution into one that respects traditional values (Carosa 2014).

The Christian conservative legal movement's behavior at the ECtHR is not unique. In fact, ADF International and the ECLJ are offshoots of US organizations that employ similar tactics in the US. These and kindred advocacy groups emerged in response to progressive rights mobilization (Hollis-Brusky and Wilson 2020; Hoover and Den Dulk 2004). As one journalist puts it, the ADF's founders saw their organization as the "Christian antidote to the secular ACLU [American Civil Liberties Union]" (Posner 2017). The activities of Christian conservative organizations at the ECtHR have, however, received little attention.

This scholarly neglect matters. The Christian Right's activities have the potential to shape both the case law and the institutional rules of the ECtHR. Indeed, ADF International speaks of "legacy cases" in which it claims to have influenced the jurisprudence of international courts, including the ECtHR. The ECLJ took part in an expert committee whose work led to new rules and guidelines on the recusal of judges. Grégor Puppink (2024), the organization's director, argues that its delegitimation tactics led to "the most meaningful change" that the ECLJ has ever achieved. ADF International and the ECLJ are new players in Strasbourg that have the potential to alter the ECtHR's jurisprudence. It is only possible to counter the growing presence of the Christian Right at the ECtHR if we understand the tactics that it employs. This article is therefore the first to describe how the Christian Right has systematically engaged in legal advocacy and delegitimation in Strasbourg. I draw on an original database of over 300 primary sources published by ADF International and the ECLJ and their parent organizations in the US, the ADF and the ACLJ respectively. These sources include press releases, news articles, *amicus curiae* briefs, white papers and briefs, and academic publications by staff members.

The article proceeds as follows. The theory section draws on the literature on legal advocacy and delegitimation. This distinction shows how advocacy groups may simultaneously work within and against the ECtHR. Next, I explain the methodological approach and data collection that underpin the article. The empirical analysis describes the dominant strategies that ADF International and the ECLJ employ in Strasbourg. While the former

primarily aims to influence the ECtHR's jurisprudence, the latter mainly uses delegitimation tactics to bring about organizational reform. Both actors thus see the ECtHR as a biased institution in need of redemption, yet stress different tactics to achieve this. In the conclusion, I suggest different ways in which this descriptive analysis might inspire more theory-oriented scholarship.

Strasbourg strategies: legal mobilization and delegitimation

Scholars of transnational advocacy and lobbying have long noted that organizations may use both inside and outside tactics (Bob 2013; Dellmuth and Tallberg 2017). Direct access is central to the former; advocacy groups hope to achieve their aims by working *through* an IO. Outside strategies, by contrast, concern the mobilization of public opinion “through news media, social media and public events such as campaigns and protests” (Dellmuth and Tallberg 2017, 707). I build on this distinction to characterize the Christian Right's activities vis-à-vis the ECtHR. I suggest that Christian conservative groups use legal mobilization as an inside strategy and delegitimation as an outside strategy. While the former seeks to influence the ECtHR's jurisprudence, the latter aims to undermine the organization's credibility. The combination of both tactics results in a double game; the Christian Right places considerable stock in the ECtHR's rulings while simultaneously calling into question its *raison d'être*.

Legal mobilization is the process by which actors “make claims about their legal rights and pursue lawsuits to defend or develop those rights” (Epp 1998, 18). This concept is broader than strategic litigation. It also includes activities such as submitting *amicus curiae* briefs, providing legal education and training, and promoting a rights consciousness among target demographics (Vanhala 2010, 6). To explain legal mobilization, scholars have taken the notion of a political opportunity structure from the literature on social movements and adapted it to a legal setting. The resultant concept of legal opportunity structure helps to explain the conditions under which actors mobilize the law.

Scholars have outlined the different elements of which a legal opportunity structure is composed (Andersen 2004; Hilson 2002; Vanhala 2010). Though the precise conceptualization varies across these authors, there is agreement on three dimensions: access, justiciable rights, and judicial receptivity. First, a favorable legal opportunity structure is one in which actors have access to the legal system. Without *locus standi*, litigation becomes impossible. Courts also vary in their openness to third-party interventions. Second, actors must be able to translate their demands into the language of the law. The opportunity structure will be closed in the absence of justiciable rights. The available legal stock is important here. As Ellen Andersen (2004, 12) puts it, actors “must

articulate their claims so that they fall within the categories previously established by an amalgam of constitutional, statutory, administrative, common, and case law.” Third, the judiciary’s perceived susceptibility to an actor’s claims matters. The ability of actors to frame their demands in legal terms will scarcely matter in the face of unreceptive judges.

The first two elements – access and justiciable rights – give Christian conservatives the opportunity to engage in legal mobilization at the ECtHR. First, the *Rules of Court* clarify that “persons, non-governmental organisations or groups of individuals” may “themselves or through a representative” present an application to the ECtHR (ECtHR 2022, 20). Christian conservative groups may thus engage in litigation. Since 1998, they have also been allowed to intervene as third parties by submitting written comments on pending cases. This is the ECtHR’s equivalent of *amici curiae*. Second, many of the Christian Right’s demands are justiciable under the ECHR. This includes, in particular, the right to life (Article 1), the right to respect for private and family life (Article 8), freedom of thought, conscience, and religion (Article 9), and freedom of expression (Article 10).

The last component of the legal opportunity structure, however, is less favorable. The Christian conservative legal movement does not view the judges in Strasbourg as particularly amenable to its claims. While ADF International would, for example, ideally view the ECtHR’s rulings “as the result of a genuine adjudication process,” in actuality it sees them as “ideological decisions coming out of a political process” (Coleman 2017, 23). Similarly, the ECLJ argues that the judges in Strasbourg have “largely adopted the value system of these [progressive] NGOs” (Puppink and Loiseau 2020, 23). To be sure, the ECtHR is not a unitary actor. There is, in fact, considerable variation in activism and restraint among judges (Voeten 2018). On balance, however, Christian conservatives believe the ECtHR’s judicial receptivity to their claims to be limited.

This alleged bias of the ECtHR explains why the Christian Right employs delegitimation as an outside strategy. IOs, because they often lack coercive enforcement tools, rely on legitimacy to be effective (Hurd 1999). IR scholars are therefore paying increasing attention to the legitimization strategies that actors such as supporting states or IO representatives may use to boost support for an organization (see for example Binder and Heupel 2021; Gronau and Schmidtke 2016). More recently, however, scholars have also begun to address delegitimation strategies (Bäckstrand and Söderbaum 2018). Delegitimation is a “process that challenges beliefs in the appropriateness of a political institution’s acquisition and exercise of authority” (Uhlin and Verhaegen 2023, 3). Populist leaders, for example, often portray IOs as elitist projects that contravene the popular will (Spandler and Söderbaum 2023). Representatives of civil society organizations may, however, also employ (de)legitimation strategies (Gregoratti and Uhlin 2018; Uhlin and

Verhaegen 2023). I build on this insight to suggest that the Christian Right may cast doubt on the legitimacy of IOs, including the ECtHR.

In particular, I emphasize the *discursive* dimension of delegitimation. This practice “draws on verbal and written communications to justify or challenge an IO’s exercise of authority” (Uhlen and Verhaegen 2023, 3; also see Bäckstrand and Söderbaum 2018). Actors may use a wide range of arguments to call into question an IO’s legitimacy. Of particular relevance here, however, is what Kilian Spandler and Fredrik Söderbaum (2023) call representational delegitimation. This strategy “critically interrogates IOs by asking on whose authority they speak, in whose interest they act, who they are made up of, and what they stand for” (Spandler and Söderbaum 2023, 1024). The Christian Right, as the empirical analysis will make clear, challenges the ECtHR’s authority on precisely these representational grounds.

Actors can combine legal advocacy with delegitimation. In such instances, they are playing a double game; they work through an IO that they simultaneously seek to discredit. To understand why the Christian Right would employ such seemingly contradictory strategies, it is important to note the *reactive* nature of its engagement with the ECtHR. Christian conservatives “often see their own legal mobilization in defensive terms, as David’s attempt to hold the line against an overweening Goliath” (Hoover and Den Dulk 2004, 18). Indeed, they initially saw the ECtHR as a benign institution. The ECtHR’s guiding principles, such as the margin of appreciation, prevented judges from issuing activist rulings. Gradually, however, the ECtHR began to treat the ECHR as a living instrument. This practice, Christian conservatives fretted, eroded member states’ sovereignty on ethical and religious questions. Relatedly, once liberal groups began to record important victories, especially with respect to LGBTI rights, Christian conservatives felt that they had to respond. Legal mobilization and delegitimation were both central to this response. Though dramatically different in approach, these strategies share a redemptive character; their objective is to convince the ECtHR to mend its ways, returning it to a time when it did not yet exhibit a liberal bias.

Research design

This article looks at ADF International and the ECLJ as the two main exponents of the Christian conservative legal movement in Strasbourg. I analyze how the organizations portray the ECtHR and how they respond to its perceived shortcomings. Methodologically, the article relies on frame analysis. Frames, following Erving Goffman (1974, 21), are “schemata of interpretation” that enable actors “to locate, perceive, identify, and label a seemingly infinite number of concrete occurrences.” They are, in other words, tools with which actors can make sense of the world around them. Scholars have catalogued

an array of framing processes (Benford and Snow 2000). Here, I focus on two: diagnostic and prognostic framing.

Diagnostic framing identifies “some event or aspect of social life as problematic and in need of alteration” (Snow and Benford 1988, 199). Simply put, what do Christian conservatives believe is wrong with the ECtHR? Blame attribution is also part of this diagnosis. Who, then, bears responsibility “for the problematized state of affairs” in Strasbourg (Snow, Vliegthart, and Ketelaars 2019, 396)? Prognostic framing shifts the focus from the problem to a proposed solution. The relevant question here is therefore what needs to be done, according to the conservative organizations, to repair the ECtHR (Snow and Benford 1988, 199)? These diagnostic and prognostic questions guide the empirical analysis.

They also enable me to distinguish between the strategies of legal advocacy and delegitimation. With regard to the former, the problem with the ECtHR is its flawed jurisprudence, and in particular its disregard for the margin of appreciation. The remedy therefore consists of judges’ renewed commitment to this doctrine. I associate this strategy primarily with ADF International. When it comes to delegitimation, institutional biases are seen as the ECtHR’s core weakness. Institutional reform, according to the ECLJ, is essential if the ECtHR wants to reclaim its legitimacy. Together, these two tactics reveal the double game that the Christian Right plays in Strasbourg.

To identify the two sets of frames, this article draws on an original corpus of texts published by ADF International and the ECLJ prior to 2022. I consulted both the organizations’ official websites and their Facebook and YouTube accounts. Such online communications fulfill increasingly important functions for advocacy groups, including providing information, fostering a sense of community, and spurring supporters into action (Rodriguez 2016). I used the following key words to select the relevant documents: “Strasbourg,” “European Court of Human Rights,” “European Convention,” “ECHR,” and “ECtHR.” I only retained English-language sources that have the ECtHR as their focus. The data collection resulted in 310 documents. These sources can be divided into four categories: news articles, academic publications, reports, and third-party interventions. The ECtHR’s Human Rights Documentation (HUDOC) database does not register interventions. As judges do not always cite these interventions, searching for references to non-governmental actors in the ECtHR’s decisions would still result in an incomplete overview. I therefore rely on self-reported interventions.

Of frames and strategies: the Christian Right’s double game in Strasbourg

The empirical analysis below describes legal mobilization and delegitimation as two dominant strategies that the Christian conservative legal movement

employs in Strasbourg. Together, these strategies result in a double game. Though both tactics are visible in the advocacy of ADF International and the ECLJ, their relative importance varies. I argue that this difference in emphasis follows logically from the two organizations' diagnostic and prognostic frames. Before analyzing their strategies, I first provide a brief background on the two organizations.

In 1994, prominent figures within US evangelical circles formed the Alliance Defense Fund, a name that they changed to the Alliance Defending Freedom in 2012. These neutral names obscure the organization's traditionalist and religious purpose. In the words of its long-time president, the ADF "was founded to defend the right to hear and speak the Truth – that truth is the Gospel of Jesus Christ" (Sears and Osten 2003, 11). This entailed, in particular, a fight against "the homosexual agenda" (Sears and Osten 2003, 11). Today, the ADF (n.d.) describes itself as the "world's largest legal organization committed to protecting religious freedom, free speech, marriage and family, parental rights, and the sanctity of life." Gradually broadening its horizons beyond the US, the ADF set up an international advocacy branch in 2010. Tax filings show that the parent organization has invested millions of dollars into ADF International in recent years (Datta 2021, 21). ADF International received accreditation at IOs, opened offices in the vicinity of Europe's regional organizations, and headquartered in Vienna. In 2016, ADF International (n.d.a) also moved to Strasbourg, "[t]o effectively engage at the European Court of Human Rights and be a resource at the Council of Europe." At the ECtHR, the organization deploys legal mobilization as its core strategy.

While ADF International is active at several IOs, the ECLJ focuses most of its efforts on the ECtHR. In fact, the organization purports to base its actions on "the spiritual and moral values which are the common heritage of European peoples" (Puppink and Loiseau 2020, 3). This lofty, if ambiguous, phrase is taken directly from the preamble to the Council of Europe's founding treaty. This European reference notwithstanding, the ECLJ began as an offshoot of the ACLJ. Pat Robertson, a prominent televangelist, created this Christian conservative legal organization in 1990. Since its inception, Jay Sekulow, who recently made headlines as President Trump's personal lawyer, has spearheaded the ACLJ. The ECLJ opened its Strasbourg office in 1998. It receives most of its funding from its parent organization (Datta 2021, 14). While Sekulow also serves as the ECLJ's chief counsel, it is Grégor Puppink, a French lawyer, who heads most of the ECLJ's operations in his position as Director General. The ECLJ is seen as "by far the most influential religious NGO on the European legal scene" (Fokas 2016, 550). The organization regularly submits third-party observations. Compared to ADF International, however, the ECLJ's advocacy relies heavily on delegitimation. Its representatives frequently pen critical contributions on the ECtHR in

conservative media outlets such as *Valeurs actuelles* and *Génétique*. As I show below, the delegitimation strategy is especially evident in the concerted campaign to cast doubt on the ECtHR's impartiality.

Legal mobilization: ADF International

ADF International uses legal mobilization to influence the ECtHR's jurisprudence. The main problem with the ECtHR, according to ADF International, is that its judges increasingly stray from their mandate, which may ultimately undermine the ECtHR's authority. ADF International therefore calls on the ECtHR to respect member states' sovereignty in matters related to human dignity, marriage, and the family.

With respect to diagnostic framing, ADF International underlines what it perceives as an unwelcome and flawed shift in the ECtHR's interpretation of human rights. The organization believes the ECHR to be, in principle, a valuable document that protects the values that Christian conservatives hold dear, including the right to life and freedom of religion. Importantly, the ECHR does not explicitly reference controversial terms such as "sexual orientation," "euthanasia," "abortion," or "surrogacy." ADF International's problem, then, does not concern the *content* of the ECHR.

Instead, the organization's gripe lays with the ECtHR's changing *interpretation* of the ECHR. This problem is twofold. First, it concerns the jurisprudential practice of reading new rights into the ECHR. The judges' "creative interpretations," according to ADF International's Paul Coleman (2017, 9) have transformed the ECtHR from a conservative into an activist institution. For example, while the ECtHR long dismissed applications related to homosexuality as inadmissible and "manifestly ill-founded," over time it invoked the right to privacy to extend the ECHR's rights to homosexuals (Johnson 2013). The ECtHR has thus found "creative ways" to "encompass situations that would not have been envisaged by the framers working in the late 1940s" (Mowbray 2005, 57).

This creativity stems from the ECtHR's evolutive approach to the ECHR. Instead of reading this document through the eyes of its authors, the ECtHR reasons that its interpretations should reflect societal developments. The ECHR should be adapted to "changes that have taken place over time – to changes in society, in morals, in mentalities, in laws, but also to technological innovations and scientific progress" (ECtHR 2011, 5). The contrast between originalism and living constitutionalism will be familiar to scholars of the US Supreme Court, but it has also divided both scholars of and activists at the ECtHR (Dzehtsiarou and O'Mahony 2013). For ADF International, the ECtHR's dynamic or evolutive interpretation is an alarming development. This interpretive strategy, as one spokesperson explains, "gives judges license to fabricate new rights," which they have made keen use of; "in recent years there

appears to be no limit to the extent to which judges may 'extend the reach' of the ECtHR" (Coleman 2017, 10). The ECtHR supposedly bastardizes the ECHR by applying its articles to issues that they were never meant to address.

However, the organization sees the evolutive approach as only half the problem. ADF International believes that the ECtHR not only fabricates new rights, but also foists these rights on the Council of Europe's member states. The ECtHR thereby disregards national sovereignty. ADF International argues that, by treating the ECHR as a living instrument, the ECtHR flouts one of its own doctrines: the margin of appreciation. This principle grants national authorities some room for maneuver under the ECHR. At the basis of this latitude is a wish to avoid "damaging confrontations" between the ECtHR and member states, especially with a view to the diversity in legal traditions and cultural backgrounds within the Council of Europe (Arai-Takahashi 2013, 63). The margin of appreciation acts as a check on the ECtHR's interpretive flexibility; as judges ought to be respectful of national differences, they must refrain from imposing uniform standards of human rights on divisive issues. As such, the margin of appreciation serves ADF International's objectives well. It promises to prevent the unwanted spillover of controversial rights from progressive countries into more conservative territory.

Yet countries do not enjoy unlimited leeway. To substantiate its evolutive interpretation of the ECHR, the ECtHR has relied on the notion of a European consensus (Dzehtsiarou 2015). Absent such a consensus, countries enjoy a wide margin of appreciation. However, when the ECtHR believes that a consensus does exist, it can limit this leeway. ADF International sees this as an unacceptable violation of national sovereignty. Coleman (2017, 10) summarizes his organization's position as follows:

There is no reason why a majority of countries legislating in one direction should force the remaining minority to conform to the trend, yet that is exactly what the "European consensus" approach does, resulting in a "tyranny of the majority" on morally controversial issues.

He adds that the ECtHR's justification for restricting the margin of appreciation, since it tramples on minority viewpoints, is "antithetical to the entire human rights project" (Coleman 2017, 20). This worries ADF International because many of its values have become the minority position in Western societies. Swimming against the tide, the organization therefore employs the language of Christian persecution. The ECtHR, William Binchy (2017, 8) argues, "has used the notion of consensus to damage the position of those States that do not subscribe to attitudes and values that have gained currency in the laws of many other States." As these values are more progressive than ADF International would like, the ECtHR's references to a European consensus have tended "to advance secularist values at the expense of religious freedom" (Binchy 2017, 7).

The diagnostic framing thus shows two interrelated reasons why ADF International sees the ECtHR as a threat to its interests: because the ECtHR's interpretation is skewed in an increasingly liberal direction, and because it finds cause to impose this interpretation on socially conservative countries.

The prognostic frame follows logically from this diagnosis. The ECtHR, according to ADF International, should practice judicial restraint. This applies to both its evolutive interpretation and its identification of a European consensus. Concerning the former, ADF International argues that "the legitimacy of the ECtHR is at its highest when its decisions have a clear textual basis in the ECHR" (Coleman 2017, 23). This implies that the ECtHR should not "fabricate" new rights. To emphasize this point, Coleman (2017, 16) reminds the ECtHR of its own conclusion, in the case of *Johnston and Others v. Ireland* (1986) on the right to divorce, that it "cannot, by means of an evolutive interpretation, derive from these instruments [the ECHR and subsequent protocols] a right that was not included therein at the outset." By reminding the ECtHR of the importance of judicial restraint, ADF International hopes that its legal mobilization will prevent the creation of a "right to abortion" (Price 2017, 31), a "right to die" (Ochab 2017, 38), and a "right to same-sex 'marriage'" (Wilkinson 2017, 84).

Moreover, ADF International believes that the ECtHR should restrain itself from imposing the views of some countries onto others. In the Council of Europe, with "800,000,000 human beings living in forty-seven States whose political and social cultures vary widely," "the idea that a human right can depend on whether five or twenty States have enacted a particular law" is "abhorrent" (Binchy 2017, 7–8). The ECtHR should therefore permanently reject the notion of European consensus, which the organization sees as a political tool rather than a sound legal principle. Indeed, the ECtHR has "total discretion in how it finds or avoids claims to consensus" (Coleman 2017, 22, emphasis in original). Such an arbitrary practice politicizes the ECtHR and undercuts its authority. Fortunately, ADF International believes that this is easily reversible; the ECtHR would enjoy the respect of its diverse member states if it simply deferred to the margin of appreciation.

Indeed, the organization stresses the importance of sovereignty in its legal mobilization. *Lautsi v. Italy* exemplifies this line of reasoning. The case was brought before the ECtHR by a mother who objected to the compulsory display of crucifixes in public schools. The plaintiff argued that the Italian state violated the right to freedom of thought, conscience, and religion as well as the right to education (Annicchino 2011). ADF International objected to this argument in a third-party observation. It reminded the ECtHR that it had established "the 'margin of appreciation doctrine' which holds that local authorities are better suited to assessing the cultural, legal and social

elements of their own nation than is the Strasbourg Court” (ADF International 2010, 1). The ECtHR, “as a matter of respect,” should therefore leave it up to member states to decide how they want to regulate the display of religious symbols in public spaces. Driving the point home, ADF International (2010, 2) concluded that

[a]ny order requiring the removal of the crucifix from the classroom would have a *de facto* chilling effect on Member State cultural and national sovereignty and would breach the principle of subsidiarity. Furthermore, any such action would do violence to tolerance, broadmindedness and pluralism by restricting expressions of cultural sovereignty and unity and eroding the very national fabric of affected Member States.

The organization has reasoned similarly in third-party interventions on issues such as same-sex civil partnerships, church autonomy, and gender reassignment (see for example ADF International 2011, 2014). In *Lautsi*, the ECtHR ultimately ruled in Italy’s favor. ADF International consequently treats it as a legacy case. It celebrates, in particular, one of the judges’ observation that the ECtHR is not empowered “to bully states into secularism” (ADF International n.d.b). ADF International thus invokes the margin of appreciation to try to convince the ECtHR that conservative countries should be allowed to go against the liberal grain.³

In sum, ADF International argues that the ECtHR’s progressive interpretations of the ECHR and its disregard for the margin of appreciation threaten Christian conservative interests. It therefore engages in legal mobilization as a form of rearguard action. Through its publications and third-party interventions, it tries to stem the tide of liberal jurisprudence. The outcome in *Lautsi* is therefore precisely what ADF wants to accomplish: an ECtHR that moves away from judicial activism and toward due deference to the margin of appreciation. Underscoring the defensive nature of ADF International’s actions in Strasbourg, one staff member described *Lautsi* as a “backlash” and a “recalibration of the religious freedoms meter towards the status quo” (Kiska 2011, 8).

Delegitimation: the ECLJ

Like ADF International, the ECLJ frequently uses legal mobilization as a strategy. Its argumentation is familiar; the ECtHR should both ensure that its evolutive interpretation does not stretch human rights beyond recognition and respect national sovereignty. The margin of appreciation consequently plays a central role in many of its third-party interventions. To take but a few examples, the ECLJ has reminded the ECtHR that countries have the right, “with their margin of appreciation,” to determine “when the right to life begins” (Puppink 2021b); that “member states must be given a wide margin of appreciation on matters of education and religion” (Puppink and Wenberg 2010); and that the ECtHR is not authorized to impose a

“cultural redefinition” of marriage onto countries (Puppinck and de la Hougue 2012).

In recent years, however, the ECLJ has shifted its emphasis from legal mobilization to delegitimation. The objective here is not to influence the ECtHR’s jurisprudence, but to undermine its authority. Indeed, the ECtHR reminds the ECLJ’s director more “of a political or moral body than of a legal body” because it “makes morality out of the language of law” (Puppinck 2020a). The ECLJ views this morality as fundamentally biased against Christian conservative values. According to its diagnostic frame, two reinforcing factors have given rise to this bias: the dominance of secular organizations in Strasbourg and the composition of the ECtHR. I unpack each factor in turn.

First, the ECLJ argues that secular forces have long monopolized the ECtHR. They have “become the main actors on this globalized normative field of human rights, to the point that some of them are now politically more powerful than many States” and have greater resources at their disposal than the ECtHR itself (Puppinck and Loiseau 2020, 10). This, according to the ECLJ, has provided the basis for successful litigation by secular groups, especially with respect to LGBTI rights and surrogacy. These organizations have been able to “dominate the proceedings and the human rights discourse” at the ECtHR (Puppinck 2020b). As a result, the ECtHR has increasingly put individual freedoms above human nature by recognizing an alien category of “trans-human rights.” The ECtHR’s “post-humanism” is said to have redefined the ECHR: “[A]lthough the wording of the Human Rights adopted in 1950 has not changed, their individualist interpretation has altered, even revolutionized, their content” (Puppinck 2014). The ECLJ’s Priscille Kulczyk (2019) even speaks of a “government of the judges.” Her organization consistently argues that the ECtHR has squandered its legitimacy by straying from its mandate.

A second problem supposedly compounds the first. The ECLJ argues that the composition of the ECtHR is skewed in a secular and liberal direction, which puts religious conservatives at an unfair disadvantage. In February 2020, the ECLJ initiated a well-organized campaign to call into question the ECtHR’s credentials. It published a report entitled *NGOs and the Judges of the ECHR: 2009–2019*, which held that many of the ECtHR’s permanent judges had previously been involved with liberal organizations that are highly active at the ECtHR (Puppinck and Loiseau 2020).⁴ A follow-up report, *The Impartiality of the ECHR: Concerns and Recommendations*, followed in 2023 (Puppinck 2023). The ECLJ took particular umbrage at the alleged omnipresence of the network of Open Society Foundations, founded by George Soros, and even spoke of “Soros judges” (Puppinck 2021a). The alleged problem is not only that secular organizations are disproportionately active at the ECtHR; it is that they have even infiltrated the judges’ chambers.

The result is “a certain ideological collusion between judges and NGOs” (Puppinck 2020a). More generally, the ECLJ argues that, “to preserve its authority,” the ECtHR should “be exemplary and fulfil the standard that it imposes to the national courts.” “Conflicts of interest” and “structural dysfunctions” undermine the ECtHR’s legitimacy (Puppinck 2023, 8).

The ECLJ’s prognostic framing consequently revolves around attempts to *re-legitimize* the ECtHR. Two responses stand out here. They each address one of the perceived shortcomings mentioned above. First, the organization has mobilized in response to the perceived threat that the overrepresentation of progressive actors in Strasbourg poses to Christian conservative values. As Puppinck (2011) explains, the advocacy of the ECLJ and its allies “counteracts the attempts of radical secularists to use human rights against Christianity” and to “de-Christianize Europe in the name of respect and tolerance of non-Christians.” The ECLJ’s presence in Strasbourg thus serves as an important counterweight to the “small milieu” of like-minded actors who are “suffocating” the European human rights system (Puppinck 2020a, 2020b). The organization has taken on the “task of external scrutiny and whistleblowing [...] in the interest of justice” (Puppinck 2023, 4).

Second, and more importantly, the organization has proposed institutional reforms to repair the ECtHR’s alleged lack of independence. The ECLJ (2022) launched a petition calling on the President of the Parliamentary Assembly of the Council of Europe to put the issue onto his organization’s agenda to safeguard “the proper functioning of the Court.” The ECLJ itself proposed various solutions. These include paying more attention to the activist backgrounds of candidate judges; implementing declarations of interest for lawyers, *amici curiae*, and judges; and formalizing procedures for the recusal of judges. Especially far-reaching is the suggestion that the ECtHR’s “most problematic judgments” be reviewed (Puppinck and Loiseau 2020, 25).

The ECLJ has successfully cast doubt on the impartiality of the ECtHR. It has carefully documented the positive coverage of its report in Christian conservative media outlets (ECLJ 2021). Populist politicians across the continent latched onto the report. Even government representatives in Bulgaria and Russia invoked the ECLJ’s findings to berate the ECtHR. A large number of right-leaning legal professionals called for corrective measures “to restore the confidence of European citizens and litigants” in the ECtHR’s work (ECLJ 2020). Research shows that public opinion responds to how elites frame international courts (Dinas and Gonzalez-Ocantos 2021). The ECLJ’s report, and the way in which it has resonated with the conservative and populist right, therefore threatens to weaken the authority of the ECtHR.

In short, the ECLJ does not have a rosy perception of the ECtHR. Not only do the ECLJ’s adversaries dominate the playing field in Strasbourg, but the judges themselves are allegedly biased against Christian conservative values. This assessment has motivated the ECLJ to initiate a delegitimation

campaign against the ECtHR. Its hope is that institutional reform will make the ECtHR more amenable to morally conservative interests.

Conclusion

This article has shown that ADF International and the ECLJ see the ECtHR as a progressive machine that threatens their core values. The two organizations have responded differently to this threat. I have argued that ADF International relies primarily on legal mobilization. Its interventions primarily seek to influence the jurisprudence of the ECtHR, away from evolutive interpretation and toward a greater emphasis on national sovereignty. By contrast, the ECLJ has embraced a delegitimation strategy in recent years. It alleges that “Soros judges” and “conflicts of interest” undermine the ECtHR’s authority (Puppink 2021a). The organization therefore campaigns for institutional reform, which is “necessary for the Court’s sake” (Puppink 2023, 8).

Importantly, this distinction is not absolute. ADF International and the ECLJ employ both strategies simultaneously, but to different degrees. This combination of legal mobilization and discursive delegitimation results in a double game; while legal mobilization requires the Christian Right to take the ECtHR seriously, delegitimation aims to undermine the ECtHR’s authority. The Christian conservative legal movement works *through* the ECtHR by representing clients and submitting third-party interventions in *individual* cases, while working *against* it by accusing the institution of exhibiting a *general* bias toward progressive actors and an overall lack of independence. These two sides of the double game are complementary. The activities of ADF International and the ECLJ aim to magnify the influence of conservative interests at the ECtHR. Mobilization and delegitimation jointly constitute a reactive development, a do-or-die attempt to transform the ECtHR into an institution that is amenable to the Christian Right.

This article has inquired into the strategies that the Christian Right uses in Strasbourg. A logical next step would be to move from description to explanation. One crucial research avenue concerns the impact of legal advocacy. Has the double game paid off? While it is impossible to directly measure the ability of NGOs to influence jurisprudence, a fruitful approach could be to examine whether, and how frequently, the ECtHR’s judgments correspond to the Christian Right’s third-party observations. Scholars could also conduct a process-tracing account of institutional reform. The ECLJ, for example, claims that

in response to the 2020 report [*NGOs and the Judges of the ECHR: 2009–2019*], the ECHR and the Council of Europe undertook to correct certain aspects of the system and to propose measures to improve the selection, independence and impartiality of the Court’s judges, as well as the transparency of the NGOs’ work. (Puppink 2023, 4)

Whether the organization's delegitimation strategy truly was effective, however, should be the subject of scholarly inquiry.

Furthermore, important questions remain about organizations' decisions to engage in legal advocacy. While ADF International and the ECLJ have mobilized in Strasbourg, advocacy by other exponents of the Christian Right, such as the Center for Family and Human Rights (C-Fam) and Family Watch International, emphasizes non-legal strategies and different IOs. Does this reflect a deliberate division of labor? More research is needed into the decisions that inform the Christian Right's advocacy.⁵

There are reasons to believe that Christian conservatives play a double game outside of Strasbourg as well. For example, ADF International regularly uses its consultative status at the UN Economic and Social Council to submit its views on member states' compliance with human rights as part of the Universal Periodic Review. This approach presumes a modicum of respect for the UN. At the same time, however, ADF International casts doubt on the UN's legitimacy, accusing the organization of having created "faux rights" regarding abortion, sexual orientation, and gender identity (Fischer 2021). On the 70th birthday of the Universal Declaration of Human Rights, ADF International (2018b) therefore launched a global petition, the Geneva Statement, which called on world leaders to "revitalize the integrity of the human rights project." Future scholarship should therefore compare and contrast the tactics that Christian conservative organizations use to influence and challenge other IOs.

Notes

1. At the time of writing, the organization has 46 members. Russia terminated its membership after Western countries imposed sanctions following its invasion of Ukraine.
2. To be sure, the ECtHR's liberal trajectory has not been a smooth one. Nor do LGBTI and women's rights advocates see it as complete (Oja and Yamin 2016; Radacic 2008).
3. On issues such as the legalization of euthanasia or surrogacy, which only a handful of member states have legalized, ADF International has argued instead that the margin of appreciation should be narrowly construed.
4. Practitioners and legal scholars have criticized the findings. Martin Scheinin (2020) argues that the report, "despite its civility in style and appearance of balance," constitutes "political advocacy."
5. I owe this point to an anonymous reviewer.

Notes on contributor

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