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ORGANIZATIONS, RELIGION, AND LEGAL MOBILIZATION:
THE CASE OF CHRISTIAN CONSERVATIVE LEGAL ADVOCACY

by

Daniel Bennett
B.A., George Fox University, 2008

A Dissertation
Submitted in Partial Fulfillment of the Requirements for the
Doctor of Philosophy

Department of Political Science
in the Graduate School
Southern Illinois University Carbondale
December 2013

DISSERTATION APPROVAL

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A Dissertation Submitted in Partial
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Doctor of Philosophy

in the field of Political Science

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July 25, 2013

AN ABSTRACT OF THE DISSERTATION OF

DANIEL BENNETT, for the Doctor of Philosophy degree in POLITICAL SCIENCE, presented on JULY 25, 2013, at Southern Illinois University Carbondale.

TITLE: Organizations, Religion, and Legal Mobilization: The Case of Christian Conservative Legal Advocacy

MAJOR PROFESSOR: Dr. J. Tobin Grant

This dissertation is a study of a social movement based on the organizations that define that movement, with specific attention to Christian conservative legal organizations (CCLOs) and their advocacy for the Christian Right in American politics. I ask, how do these organizations differ from one another in their advocacy efforts? How is this movement industry structured with respect to organizational networks? And how do the differences and variation among these organizations affect the dynamics among these groups? That is, how do organizations interact in the confines of a shared movement? This study addresses the literatures on law and society, religion and politics, and social movements, acting as a bridge between these distinct areas of inquiry. Using social network analysis, qualitative content analysis, and original interviews with movement attorneys, I find that CCLOs differ in their behaviors in their industry of activism and in their interaction with other CCLOs. I further argue that these behaviors are best understood in terms of unique organizational characteristics like structure, expertise, and relations with other groups. I conclude that organizations bearing surface similarities to one another can actually differ in meaningful ways, ways that facilitate and drive interaction among these groups in their shared movement and movement industry.

DEDICATION

For Caitlyn and Henry, my motivation and my joy.

ACKNOWLEDGMENTS

I am indebted to many people for their assistance with this dissertation. My chair, Tobin Grant, was a consistent source of constructive criticism, support, and friendship during my doctoral studies and dissertation research. His contribution to this project extends far beyond the academic realm. Laura Hatcher wore several hats during my doctoral studies, acting as a teacher, mentor, and all-around invaluable resource, among other things. If not for her perspective and insight, my research interests and abilities would most likely be very different today. Kevin den Dulk offered direction and feedback on the early stages of this project, and Laura Olson offered a distinctive combination of optimism and assistance on specific aspects of my study. In addition to Tobin Grant and Laura Olson, I thank the other members of my committee (including Phil Habel, John Hamman, and Darren Sherkat) for their willingness to read this dissertation and to offer their feedback on the project.

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Too many people to name have given me support and encouragement while I completed my doctoral studies and authored this dissertation. I have appreciated the camaraderie of my

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Dominus illuminatio mea.

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CHAPTER ONE

LEGAL MOBILIZATION IN A RELIGIOUS MOVEMENT: CHRISTIAN CONSERVATIVE LEGAL ADVOCACY IN THE U.S.

“I wouldn’t be doing this but for my faith. I feel called to do it.”

--- Kim Colby

Senior counsel, Center for Law and Religious Freedom

In September 2003, lawyers representing Joshua Davey filed a brief with the U.S. Supreme Court in the case *Locke v. Davey*. Several years earlier, Davey was an incoming undergraduate at Northwest College, a small, Assemblies of God-affiliated college in Kirkland, Washington. After applying for and receiving a state scholarship to help defray his higher education expenses, Davey declared a major in pastoral studies at Northwest. Washington’s state constitution, however, prohibited state funding from sponsoring or supporting religious activity, and so Davey lost his scholarship. Davey proceeded to sue the state of Washington (and its governor, Gary Locke), arguing that the state had violated his constitutionally protected free exercise, free speech, and equal protection rights when it pulled his scholarship due to the religious nature of his declared major.

After winding its way through the lower federal courts (the district court ruled against Davey, but the Ninth Circuit Court of Appeals reversed and sided with him), the Supreme Court granted the case review. Leading the charge for Davey’s legal team were Jay Sekulow and Alan Sears, both of whom served as chief counsel at their respective Christian legal advocacy organizations, the American Center for Law and Justice (ACLJ) and Alliance Defending Freedom (ADF). Despite Sekulow arguing that Davey’s rights had been violated when Washington revoked his scholarship, the Court ruled 7-2 that Washington did not err in rescinding the funds. The Court found that though the state could have funded Davey’s pastoral

training without violating the Establishment Clause of the First Amendment, the state was not required to. Unfortunately for Joshua Davey and for the legal groups representing him, the free exercise of religion did not guarantee access to otherwise generally available state scholarships.

While pursuing similar legal agendas and expressing nearly identical policy goals, the ACLJ and ADF are completely separate and different in terms of organization, structure, leadership, and funding. In fact, Sekulow and the ACLJ had defended Davey in federal district court and before the Ninth Circuit, while Sears and ADF became involved at the Supreme Court stage. Regardless of timing, the two lawyers and their respective legal advocacy groups came together to support Davey's claim, illustrating the ability of these kinds of groups to cooperate when a common goal is in play or a shared interest is in jeopardy. And although it is uncommon for this kind of deliberate cooperation and coordination to take place among Christian legal groups, *Locke v. Davey* shows the potential for such cooperation to take place.

Seven years later, in September 2010, lawyers for the group ProtectMarriage.com made their case in federal district court in defense of Proposition 8, the 2008 voter initiative amending the California constitution to limit legal marriage to one man and one woman. After the state of California declined to defend the amendment in the face of a federal lawsuit challenging its constitutionality, ADF was given the opportunity to step in on behalf of ProtectMarriage.com and Prop. 8. Liberty Counsel (LC), a like-minded Christian public interest legal group, also wished to defend the amendment, but ADF declined their assistance and denied their intervention. LC even sought the court's permission to intervene on behalf of Prop. 8, but was again denied. After a federal district court judge declared Prop. 8 unconstitutional, LC issued a press release highly critical of ADF's handling of the case, writing,

After ADF actively opposed Liberty Counsel, ADF presented only two witnesses at trial, following the 15 witnesses presented by those who challenged the amendment. Even

Judge Walker commented that he was concerned by the lack of evidence presented by ADF on behalf of Prop. 8 (LC 4 August 2010).

Mathew Staver, LC's founder and chairman, later told a pro-life news site that ADF opposed LC's intervention for two primary reasons: because ADF mistakenly believed LC was trying to dominate or take over the case; and because ADF did not want to include "the consequences of homosexuality and homosexual marriage" in its legal strategy (Tillman 17 August 2010).

Despite sharing the same views on same-sex marriage, this exchange illustrates the potential for competition, disagreement, and fighting between two otherwise similar legal advocacy groups, as well as variation in and disagreement over strategy in pursuit of shared causes and interests. And though such public spats are rare—even rarer than the cooperation seen in *Locke v. Davey*—indeed, the battle among legal groups over the handling of Prop. 8 shows it is a real possibility.¹

The next year, in November 2011, Mississippi voters rejected Amendment 26, which would have declared a fertilized human egg to be a legal person; such a measure would have obviously had major implications for the legality of abortion. LC successfully defended Amendment 26 from pre-election legal challenges, supporting the so-called "personhood" approach to banning abortion in this instance and in other contexts around the United States. But some ideologically-similar legal advocacy groups took issue with the personhood approach, with National Right to Life general counsel—and ADF-allied attorney—James Bopp Jr. calling the approach "utterly futile" and suggesting measures like Amendment 26 would do real damage to the movement's long-sought goal of overturning *Roe v. Wade* (Eckholm 25 Oct 2011). In response, Staver later said National Right to Life had "lost its legitimacy" and was "on the wrong side of advancing human life protections" (Eckholm 5 December 2011). These clashes over

¹ The Prop. 8 case (*Hollingsworth v. Perry*) eventually made its way to the Supreme Court, where the justices ruled 5-4 that ADF and defenders of Prop. 8 lacked standing to appeal the district court's decision. It is worth noting that LC, despite its public skepticism with ADF's treatment of the case in federal district court, did file an amicus curiae brief before the Court in support of Prop. 8.

personhood advocacy point to the possibility of disagreement among like-minded organizations sharing broader policy goals and aspirations, even without direct competition and fighting over specific cases; the disagreement here stemmed from strategy, not conflict.

A few months later, in March 2012, the Supreme Court heard a legal challenge to the Patient Protection and Affordable Care Act, President Obama’s signature health care reform law. Several conservative groups were behind the challenge, arguing the legislation was unconstitutional on many fronts. Participating in this legal campaign to invalidate “Obamacare” were several Christian legal groups, each authoring its own brief—and several filing their own challenges—stating opposition to the law. Instead of actively collaborating with one another, competing against one another, or disagreeing on legal strategy, these groups were content to act independently in their pursuit of a dismantled or wholly repealed Affordable Care Act. And although the Court ultimately upheld the Act in *National Federation of Independent Business v. Sebelius*, Christian conservative legal groups have continued to pursue other avenues of legal challenges to the law, including its mandate for businesses to carry insurance plans that make contraceptive and birth control coverage available to their employees.² These groups have, for the most part, continued to act independently of one another in these ongoing challenges.

These four accounts have at least three things in common. First, they each include the involvement of Christian conservative legal organizations (CCLOs) as involved parties in their respective legal activity. Second, they each include an issue (religious freedom, same-sex marriage, and abortion, respectively) of traditional importance to the Christian Right, an influential social movement in American politics and society. And third, they each highlight different outcomes of CCLO interaction in the realm of legal mobilization in American politics:

² These groups argue that this mandate does not make appropriate exemptions for businesses whose owners who object to contraception and birth control on religious grounds.

cooperation, competition and disagreement on strategy (legal and otherwise), and, most commonly, independent action.

These examples illustrate the puzzle behind this dissertation: despite CCLOs sharing much of the same broader agenda, these groups rarely formally cooperate with one another in support of this agenda. Accordingly, this puzzle leads to the question driving this study: as much as organizations from a shared social movement are like-minded and share social and political goals, to what extent is there variation among these groups in their causes, strategies, and tactics? And if there is variation among them, how does this variation affect the organizational dynamics in this community? That is, how does an organization act and react with respect to the existence and behavior of other groups within its movement? Simply put, how do independent organizations in the same movement interact?

In this dissertation I conclude that CCLOs are non-monolithic and diverse as social movement organizations for the Christian Right, finding that like-minded and seemingly similar social movement organizations—especially to outside observers (for example, Boston 2000)—are actually quite different in their organizational identities. I argue that several characteristics—including organizational structure, organizational expertise, and organizational relations—constitute organizational identity, explaining how diverse and distinct social movement organizations in the same industry inevitably interact with one another.

This Study in Context

This is a study of social movements and organizations, especially interaction among organizations. It is group-focused, paying attention to the distinctions and intricacies among organizations occupying shared space in a social movement (in this case, one with both religious and political dimensions), and exploring how these groups interact in light of their differences.

At the same time, this is also a study of religion and politics. The organizations in this study are all tied to Christian conservatism and the Christian Right, but while each group emphasizes the role of religion and faith in their operation, they are not uniform in their understanding of how faith ought to affect their efforts. But this is also a study of law and social movements, being concerned with how legal organizations from a shared movement interact with one another and what their legal advocacy work can tell us about their organizational identities. Therefore, this study is effectively situated to contribute to (and be influenced by) several strands of research.

At a basic level, this is a study of a movement based on the organizations that define this movement. Specifically, this is a study that examines how movement organizations interact in a shared movement. This assumes, of course, that a movement is home to multiple organizations acting on behalf of its interests. But this is a not a controversial assumption: a movement must have organizations to function as a movement at all, given the inescapable problems of collective action in movement politics. Furthermore, in any movement there are often multiple organizations, acting in competition for finite resources and supporting the various goals desired by their movement. But the existence of more than one organization in a movement can threaten the effectiveness of that movement, as group conflict and infighting can hinder coordination and cooperation instead of alleviating problems of collective action.

The question is, then, how do these organizations interact in the confines of their shared social movement and movement industry? What happens when non-monolithic, distinct movement organizations inevitably interact with each other? How and in what formats can these groups interact? And what happens when they, sharing broader goals and interests, disagree on strategy or tactics in pursuit of these goals or interests? These are some of questions regarding movements and movement organizations I aim to address in this dissertation.

But what is a social movement? John McCarthy and Mayer Zald, who coauthored several influential articles and chapters on social movements in the 1970s and 1980s, helped reorient the term for contemporary scholars. They define a social movement as “a set of opinions and beliefs in a population which represents preferences for changing some elements of the social structure” (McCarthy and Zald 1977, 1217).³ Given that the social structure is the dominant arrangement or distribution of power and/or rewards in a given society, a social movement is tasked with adapting the social structure for the benefit of the social movements’ constituents and adherents.

The term “social movement” is a broad one. What is more, within a given social movement there are other classifications useful to social scientists for categorizing various elements of the broader movement, classifications that prove particularly helpful given the direction of this dissertation. The social movement organization is one such classification, defined as “a complex, or formal, organization which identifies its goals with the preferences of a social movement or a countermovement and attempts to implement those goals” (McCarthy and Zald 1977, 1218). Social movement organizations, then, operate under the auspices of a given social movement and with the interests and goals of said social movement in mind, but organizations are more ordered and arranged than the average concerned citizen member of the social movement. The authors give the example of the civil rights movement in the United States as a social movement, with the National Association for the Advancement of Colored People and the Southern Christian Leadership Conference acting as movement organizations within that social movement.

CCLOs are movement organizations along with other groups in Christian conservative advocacy, such as the Family Research Council and American Family Association. But despite

³ Writing before them, Wilkinson (1971) defines social movement as “a series of actions and endeavors of a body of persons for a special object” (12). There are clear similarities between the two definitions, as each involves actions meant to alter something about the existing order.

being a part and acting on behalf of the same social movement, there is a terminological and definitional distinction to consider: CCLOs and these groups may not necessarily belong to the same social movement industry. Turning once again to McCarthy and Zald (1977), a social movement industry is constituted by “all SMOs that have as their goals the attainment of the broadest preferences of a social movement” (1219).⁴ In this way, I argue, organizations within the Christian Right movement that have similar goals constitute a unique industry of this movement.

I further suggest that CCLOs operate in a unique “sub-industry” of the industry of organizations for the Christian Right, given their emphasis on legal mobilization as the vehicle driving and informing their particular efforts and actions; the authors would support extending the definition, writing, “In any set of empirical circumstances the analyst must decide how narrowly to define industry boundaries” (1220). As such, social movement organizations with varying tactics and strategic emphases should not necessarily be categorized as belonging to the same industry, despite sharing goals relating to the broader social movement; I return to this discussion in the following chapter.

As might be expected, there is never total harmony among like-minded movement organizations working on behalf of the same broader causes. Despite sharing many of the same beliefs, motivations, and goals, organizations, at a base level, compete for resources in a limited pool of available goods (Zald and Ash 1966; McCarthy and Zald 1977; Zald and McCarthy 1980). Indeed, “[S]MOs exist in an environment with other organizations aimed at rather similar goals. Similarity of goals causes an uneasy alliance but also creates the conditions for inter-organizational competition” (Zald and Ash 1966, 330). Furthermore, when there is disagreement

⁴ This is similar to what Walker (1991) calls a *policy community* – “a network of interest groups active in a particular policy domain” (Wasby 1995).

among movement organizations over the strategies and tactics used to pursue specific goals, as well as the degree to which change is sought, conflict will likely increase (Zald and McCarthy 1980). Such tension is evident among legal advocacy groups as well (Tushnet 1987; Ernst 1995 2005; Hatcher 2005; Toobin 2012), and, given the example of the tensions between LC and ADF over Prop. 8, CCLOs are no exception.⁵

Additionally, there are definitional distinctions between different *kinds* of social movements, including religious movements and political movements. Sherkat (2005), while offering a more inclusive definition of social movements than do McCarthy and Zald (1977), discusses religious and political movements in tandem. He argues that religious movements see the power of the state in “[generating] favorable or unfavorable environments for their congregants,” while political movements see the value in “[co-opting] religious ideological or actual resources” for political gain (Sherkat 2005, 8). In addition, while Olson (1965) posits that individuals will be reluctant to act collectively for shared goods out of concern for economic self-interest, religion—especially conservative traditions— helps mitigate this dilemma (Iannaccone 1994). Giving time or money to a church or to a religious movement organization “is not just a form of advocacy or self-interest; rather, it is a way...of giving oneself, of losing one’s (selfish) life to save it” (Hertzke 1988, 10).

This conjures unmistakable visions of the Christian Right, especially given its unique status among social movements in the United States when considering its emphasis on political mobilization to achieve its religious goals. I posit that the Christian Right should be viewed first as a religious movement. This is because of the movement’s acknowledgment and legitimation

⁵ Toobin (2012), speaking of disagreement between gun rights legal groups, writes, “Conflicts over litigation strategy are common, even among ideological allies. Issues of timing, risk of adverse decisions, control of a case, and simple ego often lead to bitter feuds” (107). Such an account could easily have been about the disagreement between LC and ADF over the handling of California’s Prop. 8 litigation.

of state power to pursue their goals and interests (as evidenced by its political engagement), and because it is the social movement's practice of a conservative, traditionalistic form of Protestant Christianity that informs its political perspectives, not vice versa.⁶ In actuality, the Christian Right may more accurately be considered a "politico-religious" hybrid movement. But despite its explicit political activity in contemporary society, the Christian Right ought to be treated first as a religious movement and then as a political one. By studying how CCLOs' actions and efforts influence the Christian Right, I am exploring the role of legal mobilization in a religious movement.

An important component of a viable social movement is how the movement discusses and presents its activities to its constituency and adherents; this is what the social movement literature calls "framing." Collective action frames, for social movements, "are action-oriented sets of beliefs and meanings that inspire and legitimate the activities and campaigns of a SMO" (Benford and Snow 2000, 615). These frames allow social movement adherents to "negotiate a shared understanding of some problematic condition or situation they define as in need of change... [and] make attributions regarding who or what is to blame" (Benford and Snow 2000, 615). Additionally, frames let organizations attribute effective labels to friends and foes of their movement and assign blame for perceived threats and problems (Hunt et al. 1994; Gamson 1995; Benford and Snow 2000).⁷ Since this dissertation briefly touches on how Christian legal groups frame their efforts and use language in advancing and defending their interests (Hertzke 1988;

⁶ An example of a political movement co-opting religious resources can be found in professional political campaigns. George W. Bush's incorporation of Christian conservatives (especially Evangelicals) into the Republican Party's electoral coalition is an example of this kind of political movement (see Kuo 2006 and Hudson 2008). Barack Obama's outreach to and attempts to mobilize more progressive Evangelicals in 2008 is another example of a political movement embracing religion.

⁷ CCLOs, as will be seen, are particularly effective in employing this kind of "boundary" or "adversarial" framing (that is, conveying their efforts in moralistic, black/white terms).

Moen 1992; Hofrenning 1995; Marley 2006; Dudas 2008), research on framing is particularly relevant.

Previous research on specific movements and movement organizations in American society and politics are useful to consider as I set up this study and focus on organizational interaction in the same movement. For example, Morris (1984) employs an indigenous perspective in his research on the civil rights movement, which is reserved for movements emerging from dominated groups in society.⁸ He suggests that for these dominated groups, it is crucial to consider “nontraditional and nonlegitimized” ways of changing the existing social structure (Morris 1984, 282). He highlights the importance of developing “local movement centers” in these kinds of movements, demanding formal organization to be successful.

Meanwhile, Staggenborg (1991) presents an account of the rise and transformation of the pro-choice movement. Considering the whole industry of pro-choice activists and movement organizations, she acknowledges the movement’s change in posture from pre- to post-*Roe v. Wade*, writing that it was “forced into a reactive stance as the countermovement began to shape the pro-choice agenda” (Staggenborg 1991, 4).⁹ Likewise, she suggests that the pro-choice movement essentially transformed into a single-issue movement in response to its emerging countermovement; nonetheless, it was successful in continuing to mobilize supporters.

These two studies suggest that social movements do not exist or evolve in a uniform fashion, according to the same dicta or criteria. Instead, social movements must respond to their environment and circumstances in a manner authored by their unique contexts; given the rise of legal mobilization in the Christian Right, this movement is no exception. In my study, focusing

⁸ Although the Christian Right is hardly a dominated group, language and issue emphases fitting this theme does make it into their rhetoric and general message; the importance of framing is again readily apparent.

⁹ This countermovement was, of course, dominated by religious conservatives, including many of the same actors and groups instrumental in establishing the modern Christian Right.

on group interaction via CCLOs and their role as movement organizations for the Christian Right, research on social movements, movement organizations, and movement industries is obviously instructive and informative.

In addition to being a study of a movement based on the organizations constituting the movement, this is a study that focuses on a *particular* movement: the Christian Right in the United States.¹⁰ The Christian Right has been a mainstay of American politics for several decades, hitting its stride in the 1980s with the establishment of Jerry Falwell's Moral Majority, Pat Robertson's Christian Coalition, and the increased politicization and activism of the Southern Baptist Convention (to name just three actors). And while there have been questions as to its contemporary efficacy—particularly in light of the rise of a generation of younger Evangelicals—the Christian Right is still a formidable movement in American politics. It is this movement industry—and the organizations operating in this industry—that I offer as an example of organizational interaction. In this dissertation I explore how, why, and to what effect social movement organizations define the movement with which they are affiliated, specifically by looking at how CCLOs have engaged in legal mobilization on behalf of the Christian Right.

Scholars interested in religion and politics in the United States know a great deal about religious individuals (especially Christians), in terms of how they tend to vote and what they believe politically as well how organizations and interest groups affect the landscape of contemporary American politics (Beyerlein and Chaves 2003; Campbell 2004; Campbell and Monson 2008; Driskell et al. 2008; Shields 2009; Putnam and Campbell 2010; Wuthnow 1988;

¹⁰ The Christian Right is a conglomeration of conservative Christians (dominated by white Evangelical Protestants) active in the American political arena pursuing policies consistent with their faith commitments (see Wilcox and Potolicchio 2010). Examples of these policies include: opposition to abortion; defense of religious activity and involvement in the public square; advocacy for the traditional conception of marriage and the family; promotion of an originalist reading of the Constitution and the appointment of like-minded judges to the bench (which corresponds with how conservative Christians read and interpret the Bible [Gordon 2010]); and support for a strong U.S.-Israeli relationship, which they see as consistent with their reading of scripture.

Ammerran 1991; Green et al. 1996; Green et al. 2006). As stated earlier, political participation at among conservative Christians (and their respective organizations) increased immensely in the 1970s and 1980s, largely as a reaction to the perception that the traditional moral order (found in Judeo-Christian values) was under attack through liberalized abortion policies and clamping down on religion's presence in the public square, among other factors. Additionally, "Short-term shifts in social movement activism on the part of religious groups appear to be far more the result of alterations in the availability of religious infrastructures than of changes in religious values" (Zald and McCarthy 1987, 69). For the Christian Right, the increasing availability of infrastructures led to increased involvement in mass political mobilization, which paved the way for the establishment and support of CCLOs in American legal and political advocacy.

Past research has identified religious interest groups as particularly effective organizations in American politics, at least in terms of organizing constituencies and combating collective action problems (Olson 1965). Religion tends to be a dominant force in American society relative to other western nations, providing religious interest groups and activists fertile ground for grassroots mobilization (Hertzke 1988). Hertzke also suggests that "religious motivation potentially undercuts the Olsonian dilemma of economic rationality and the attendant 'free rider' problems undermining collective action" (10). Religion, therefore, can help mediate social movement advocacy.

However, identifying the areas of strength of Christian Right interest groups and movement organizations is somewhat counterintuitive: rather than being most effective in positions of leadership and in the corridors of power, scholars have suggested that the Christian Right is most effective in marginal positions, when they can shape the dialogue from the outside and present their efforts to constituents and supporters as those befitting an embattled minority

(Hofrenning 1995). Indeed, in the context of Christian Right activism in school board membership, Melissa Deckman writes, “In terms of the intersection of religion and politics, the cases demonstrate that conservative Christians are perhaps more effective as critics of the system in a minority setting than as policymakers with the authority to govern” (Deckman 2004, 163). Given that CCLOs’ legal mobilization activities (though not necessarily the groups themselves) are by definition outside traditional power structures in American political activism (Zemans 1983; Olson 1990), this past research and its observations of Christian Right engagement is especially relevant.

This dissertation incorporates observations concerning divisions and rivalries within the conservative Christian political community to the more narrow CCLO industry, and how these divisions affect interaction among these social movement organizations. According to two scholars, “Like all social movements, the [Christian Right] is composed of social movement organizations, leaders, activists, and members, and it seeks to attract support from a broad potential constituency” (Wilcox and Robinson 2011, 9). Furthermore, “some legal advocacy groups were part of a larger conglomerates that covered various portions of the public square and whose constituent parts benefited from each other’s unique resources” (Hoover and den Dulk 2004, 21). Read in this way, Christian Right organizations and CCLOs could be seen to be especially harmonious, at least in terms of lacking discernible discord among member organizations.

However, given the size of and factions within the conservative Christian political body, it is not surprising that these various constituencies are not always in lockstep with one another (Guth 1983; Wilcox 1992; Lienesch 1993; Green et al. 1996). And there still may be tension among movement organizations in the Christian Right, even when groups are in relative

agreement with one another: “If the American Family Association has the same policy agenda as the Family Research Council, then the two may find themselves competing for members and, perhaps, for financial support” (Heinz et al. 2003). Such is the nature of interest group and movement politics, even among religiously affiliated ones.

Previous research has demonstrated there to be tangible tensions within various traditions of conservative Protestantism in the United States (theologically, socially, and politically), with some scholars making clear distinctions between Fundamentalists, Pentecostals, and Evangelicals (Marsden 1990; Woodberry and Smith 1998). These tensions can even be found within specific Protestant denominations, with political divisions rising out of these strains (Lewis 2011). Moreover, divisions among and generated by the Christian Right in some states have been shown to hurt the Republican Party electorally, suggesting that divisions within this movement can have negative consequences for the political and institutional allies of conservative Christians in the United States (Green et al. 2001).

In this dissertation I argue that these divisions and rivalries, while subtle and not necessarily explosive, are found in the CCLO industry just as they have been manifested in other Christian Right contexts. I further argue that CCLOs should not be treated as homogeneously or monolithically. Hoover and den Dulk (2004) are correct in noting that various Christian Right social movement organizations act as advocacy conglomerates, letting associated legal organizations handle the area of legal mobilization. But, just as CCLOs should not be treated as a monolithic group, neither should the Christian Right. It is widely known that Pat Robertson and Jerry Falwell, giants in the establishment and evolution of the Christian Right, had a tepid relationship (Moen 1992).¹¹ Likewise, there is a limited pool from which Christian Right social

¹¹ This is primarily due to each man’s theological tradition with Protestantism, with Robertson embracing a Pentecostal form and Falwell adopting a fundamentalist understanding (see Boston 2000, p. 193 for details).

movement organizations can draw resources necessary to sustain the growth and development, which would inevitably lead to political discord (Zald and Ash 1966; Guth 1983).

Among CCLOs, just as there are opportunities for these groups to work together on issues, there are also opportunities for divisions and rivalries to arise, either due to organizational identity or due to a resource mobilization explanation. Such divisions are evident in, among other places, the feud between ADF and LC over how to litigate a defense of Proposition 8, as well as in more recent public debating among pro-life groups over the right methods to pursue anti-abortion policy goals. According to James Bopp Jr., general counsel for National Right to Life (NRL), “There has always been a division between those who want to concentrate on what will make a difference, and those who are more interested in making a statement that makes them feel better” (Eckholm 5 December 2011). And despite suggestions that such divisions may be avoided so long as there is a clear understanding and acceptance of the “division of labor” within the community (Guth 1983; Hoover and den Dulk 2004), instances of observable squabbling among CCLOs in various issue areas abound. Discovering the extent to which these divisions contribute to the variation of causes and strategies among CCLOs, and how this affects the interaction among CCLOs in their movement industry, is a central objective of this study.

Even more specifically, though, this is a study of organizations in a particular movement industry of the Christian Right. Legal mobilization—that is, organizing and pursuing goals through legal means and mechanisms—is but one industry of advocacy available to Christian conservatives, complementing grassroots organizing and lobbying. Broadly, much research on and consideration of legal mobilization comes from the law and society tradition. As such, research from the law and society literature informs several assumptions of this study.

Central to law and society research is, not surprisingly, the question of law in a given society. This focus has motivated a number of important studies in recent decades as the sociolegal arena of research has taken shape. These studies have ranged from how law and legal consciousness is generated among citizens (Bumiller 1988; Merry 1990; Ewick and Silbey 1998) to the role of courts and other institutions in shaping and perpetuating taken-for-granted or popular conceptions of law (Brigham 1990; Haltom and McCann 2004). Legal mobilization is but one of these topics.

Legal mobilization is an inherently political activity that extends the scope of democratic activity in a variety of institutional settings (Scheingold 1974; Zemans 1983; Olson 1980). There are numerous examples in prior research showing and debating the influence and effectiveness of legal mobilization in a variety of situations (Olson 1984; Tushnet 1987; Rosenberg 1991; McCann 1994; Van Dyk 1998; Paris 2001). An important conclusion from this and related research is that legal groups need not always be successful in the courts to be successful in their mobilization efforts, as an instance of losing can motivate and mobilize supporters and allow for effective rhetorical framing devices (McCann 1994; Albiston 2011). Sometimes, mobilization by itself is enough to incite changes consistent with a movement's particular goals; just like early research on social movements states, "There are various kinds of movement success" (Zald and Ash 1966, 333).

Groups and movements can rely on generating public awareness and bringing in support for their causes via this awareness to get desirable results (McCann 1994). They can also craft their legal arguments in such a way that they are not demanding the creation of "new" constitutional rights, but rather simply the acknowledgment and enforcement of existing laws already on the books (Olson 1984). This approach moves away from the "myth of rights"

approach and embraces the framework of a “politics of rights” (Scheingold 1974).¹²

Furthermore, this kind of legal mobilization, one that does not rely solely on institutions (the courts) to effect social change, counters those suggesting that legal action via the courts is incapable of creating lasting social change (Vose 1959; Rosenberg 1991). An in-depth exploration of the strategies utilized by CCLOs in their various causes places them well within the realm of this conception of legal mobilization; litigation is but one weapon in a CCLO’s arsenal, and this multifaceted approach increases opportunities for group interaction for organizations in the same social movement industry.

Research on legal mobilization has, like other areas within the law and society tradition, evolved over time. Legal mobilization is available to those who have generally lacked a seat at the table in other political contexts, such as in the executive or legislative branches, or who are generally powerless to act in other settings (Olson 1984; Tushnet 1987; Lawrence 1990;). However, legal mobilization is also an available tactic for those who do have voices in other, more traditional ways; this can be seen in research on the efforts of the conservative legal movement (CLM) in the United States (Olson 1990; Scheppele and Walker 1991; Southworth 2008; Teles 2008). Indeed, “every legal tactic devised by the powerless can be appropriated by the powerful, often with greater degree” (Abel 1998, 102). And regardless of how they frame and discuss their efforts and activities (especially in terms of marginalization or persecution), CCLOs and the Christian Right, purely in terms of demographics and representation relative to other groups, do operate in a position of power in America. CCLOs are thus able to mobilize the law in a beneficial fashion (Abel 1998).

¹² Originally written in 1974 and later republished, Scheingold’s *The Politics of Rights* (2004) suggests that a “myth of rights” is embedded in American society, specifically in terms of people’s perceptions of the law and what the law can do for them in terms of pursuing rights claims. A “politics of rights,” on the other hand, encourages people to look outside the courtroom in pursuing rights claims and instead make use of various mechanisms to pursue such claims in the public arena, away from the sacred halls of the courts.

Scheingold (2004) further suggests that Christian Right legal groups operate in a unique position among public interest legal groups, even among CLM organizations. This is because of their ability to discuss their efforts and activities in paradoxical, minoritarian language; that is, emphasizing their struggle against a secularist elite and describing their causes as persecuted by the social structure they aim to change, even though the movement operates in positions of power and influence in various institutions of the American political system.¹³ Indeed, he argues that the Christian Right and their CCLOs, unlike other constituencies of the CLM, are able to frame their struggles using the language of rights in the same fashion as other liberal and populist public interest legal groups. This suggestion is similar to other research on American Evangelicals, highlighting their seemingly contradictory statuses as both embattled *and* thriving in a pluralistic culture (Smith 1998).

Key to legal mobilization and public interest legal groups are the attorneys driving these groups. Research on lawyers coming out of the law and society tradition has been particularly rich, both conceptually and methodologically (Sarat and Felstiner 1995; Shamir 1995; Sarat and Scheingold 1998; Scheingold and Sarat 2004; Sarat and Scheingold 2005). Specifically, research on cause lawyering has tended to adopt the framework for legal mobilization that Zemans (1983) proposes, one that sees legal mobilization consistent with political action in a democratic society. This framework has allowed research on cause lawyers to flourish, given the importance of legal mobilization to the work of lawyers working for particular causes, including those lawyers affiliated with legal interest groups like CCLOs.

The literature on the legal profession in the United States is careful to distinguish between two conceptions of lawyers: “traditional” lawyers and “cause” lawyers. Traditional

¹³ Such posturing is not and has not been universal among CCLOs and their lawyers. In 1997 Jay Sekulow, head of the ACLJ, criticized the talk of persecution and oppression in the United States, saying, “We don’t have the vaguest clue in this country what persecution is” (Marley 2006, 349).

lawyers place their service to the client above their own views and policy pursuits, maintaining strict adherence to the professional ideology of law rooted in positivism and rationality and embracing “a very narrow, rights-focused view of solutions to broad social problems, which tends to ignore other, broader alternatives” (Scheingold 1974; Miller 1995; Scheingold and Sarat 2004). Lawyers embracing this traditional view of the legal profession do so to keep the profession pure, so that it may be “governed by the morality dictated by the profession and not from outside the profession” (Pearce and Uelmen 2004, 143).

On the other hand, cause lawyers tend to abandon this traditional vision of the legal profession in favor of an approach to litigation that places the convictions of the lawyer at the center of her efforts as a legal professional. To do otherwise and leave one’s convictions at the door, according to this understanding, would separate the lawyer from her identity as both a lawyer and as a person. Put differently, according to Pearce and Uelmen (2004), “Lawyers are neither fungible nor neutral. They differ in their abilities, as well as in the ways that their identities and experiences influence their conduct” (144). Because these lawyers’ identities shine through their work in the legal realm, they have “something to believe in” and are thoroughly committed to their work in defense of their particular cause (Scheingold and Sarat 2004). As previous research has shown, CCLOs and their attorneys fit this model of lawyering to a tee (Paik et al. 2007; Den Dulk 2008; Southworth 2008).

A more precise definition of “cause lawyer” has led to research on lawyers for conservative causes and the distinctions between their brand of cause lawyering and cause lawyering from liberal, public interest litigators and organizations. This research has explored the CLM as a distinct community, comprised of various factions of lawyers pursuing politically similar yet substantively distinct, oftentimes uncoordinated, and occasionally oppositional

interests within the conservative movement (O'Connor and McFall 1992; Southworth 2008). This movement encompasses several broad types of legal groups and litigators, including business lawyers, libertarian lawyers, and Christian lawyers (Heinz et al. 2003; Hatcher 2005; Southworth 2005; den Dulk 2006; Paik et al. 2007; Southworth 2008; Teles 2008; McIntosh and Hatcher 2010). Thus, the CLM, as a counter-mobilization movement to older liberal public interest legal advocacy, “seems analytically indistinguishable” from these liberal groups (Sarat and Scheingold 2005).

Pro-business lawyers were at the forefront of the CLM's earliest responses to liberal legal organizations and efforts, but as the movement evolved it came to encompass a broader and more diverse coalition of litigators from various ideological and theological backgrounds (Epstein 1985; Southworth 2008). Christian litigators are clearly part of this movement, but they are not closely tied to other lawyers in the movement (Heinz et al. 2003; Paik et al. 2007). Lawyers for Christian conservative groups and causes use their training as legal professionals to pursue specific goals through litigation and legally defend areas of policy important to the Christian Right, such as religious liberty, pro-life issues, and a defense of the traditional conception of the family (Hacker 2005; den Dulk 2006; den Dulk 2008). These causes often run counter to the goals and priorities of other CLM groups and attorneys, most notably from the libertarian wing (Paik et al. 2007; Southworth 2008).

It was not until some segments of conservative Christianity became more politically visible in the 1970s and 1980s that Christian litigators and movement organizations grew in numbers in the United States (Wuthnow 1988; Green et al. 1996; den Dulk 2006). Christian conservative lawyers and CCLOs owe their existence in part to movement leaders who “nudged their religionists out of apolitical isolation” and convinced these lawyers to see “lawyering as a

distinctly religious vocation” (Hoover and den Dulk 2004, 25). Such lawyers, viewing their work as an extension of their faiths, appropriately belong in any discussion of conservative cause lawyers, and the expansion of financially formidable Christian legal groups is an important factor that made this inclusion possible. This is because, according to an unnamed lawyer affiliated with the CCLO industry, “suddenly you had enough money to be able to put competent full-time litigators on religious liberty cases, and to do nothing but those cases” (Southworth 2008, 26).¹⁴ Additionally, controversial and salient U.S. Supreme Court decisions like *Engel v. Vitale*, *Abington School District v. Schempp*, *Roe v. Wade*, *Lee v. Weisman*, and *Planned Parenthood of Southeastern Pennsylvania v. Casey* helped encourage Christian conservatives to mobilize the law as an effective addition to their political activism.

Christian conservative legal groups have, over time, mobilized and engaged on behalf of specific causes in ways unseen by comparable religious traditions (den Dulk 2006). Indeed, “The Christian Right began to field its own organizations to translate dismay about the Supreme Court’s rulings on religion and abortion into a new brand of conservative public interest law” (Southworth 2008, 26). In this way, CCLOs have come to represent a unique segment of the CLM, while simultaneously inhabiting a niche role within the Christian Right. The unique context of CCLOs in their social movement presents unique opportunities for this study in terms of analyzing relationships and interactions among like-minded yet distinct movement organizations.

¹⁴ Of course, there are other arenas in which Christians can act to transform culture. According to D. Michael Lindsay in his study on Evangelical elites, “Evangelicals still desire to shape their respective spheres of influence, but the most strategic developments today occur in settings other than the political convention hall or the courthouse” (Lindsay 2006, 223). While it may be true that overtly political and legal campaigns are no longer the desired *modus operandi* among the elite Evangelicals in Lindsay’s study, CCLOs and their attorneys (many of whom belong to the Evangelical sphere of conservative Christianity) appear to be exceptions to this trend.

Previous studies have dedicated ample time to outlining the history and evolution of Christian legal advocacy in the United States (den Dulk 2001; Brown 2002; Hacker 2005; den Dulk 2006; Moore 2007); any attempt to duplicate such efforts in this dissertation would prove superfluous. Put succinctly, the beginning of Christian Right legal mobilization—and the subsequent rise of CCLOs—can be traced to the beginning of the Christian Right as a politically motivated movement in American Christianity (specifically Evangelical Protestantism) and American politics. Scholars point to several developments as encouraging the growth of the Christian Right as a viable political movement, some of them institutional in nature and others coming from within conservative Christian circles.

The *Roe v. Wade* Supreme Court decision, for example, acted as a watershed moment for Christian conservatives in the United States, motivating many of their ranks to political action (den Dulk 2006). In the early 1980s, Evangelical elites began to see the value of having a multi-faceted approach to this political action, including maintaining a legal presence. It did not take long for Christian legal advocacy groups to become established in the broad realm of American legal mobilization. The presence of CCLOs in Christian conservative activism, while emerging gradually, has since been a permanent fixture of American interest group advocacy.

While effective participation is a critical component in the American system of government, as it is in any democratic society (Dahl 1989), not all choose to or—more importantly—are able to participate equally (Verba and Nie 1972). Social movement organizations and pressure groups help fill this void, giving people the ability to pool their resources and collectively mobilize to counter established and elite perspectives, which tend to dominate the policy-making environment (Schattschneider 1960; Dahl 1961; Olson 1965). Indeed, interest group activity is a key function of the democratic process (Truman 1951). Since

the 1960s American society has seen a tremendous increase in the number of movement organizations and pressure groups involved in the political process (Walker 1991). Private organizations involved in the public policy process concern some, as they suggest that the heart of American democracy is at risk when these groups become entrenched in the regulatory bureaucracy and policy-making apparatuses of this country (Lowi 1969).

Many interest groups and movement organizations look out of the interests of established, conservative coalitions (Schattschneider 1960; Scheppele and Walker 1991), and influential organizations representing Christian conservatives (such as Focus on the Family, Family Research Council, Concerned Women for America, and American Family Association) are no exception (Green et al. 1996; Wilcox and Robinson 2011). This trend extends to the arena of legal mobilization (Olson 1990; Abel 1998), where the vast majority of legal advocacy groups associated with the Christian community embrace conservative—particularly socially conservative—policy goals (Paik et al. 2007; Southworth 2008).

Can scholars not particularly interested in legal mobilization or the Christian Right take anything away from this study? It is true that this is a study of CCLOs as groups comprising a unique social movement industry of the Christian Right in the American political context. But more broadly, this study tells the story of the role of legal mobilization in a social movement. And more broadly than that, this is study of how social movements attempt to change politics and society to better conform to their goals and interests, all while interacting with other organizations sharing the vast majority of these interests. In fact, some of the questions motivating this study have been asked of other social movements in the United States, including the disability rights movement, the civil rights movement, the pay equity movement, and the

property rights movement (Olson 1984; Tushnet 1987; McCann 1994; McIntosh and Hatcher 2010). This case study attempts to shed light on broad, important questions.

Throughout this study I examine how three concepts—organizational structure, organizational expertise, and organizational identity—contribute to organizational identity among movement organizations. The identity of an organization plays a crucial role in how that group interacts with other members of its social movement industry. Thus, it is by exploring organizational identity and its constituting concepts that one can begin to understand how groups in the same movement interact, cooperate, and compete with one another. Indeed, this conceptual development is relevant to other multi-organization movements, particularly in the context of describing and analyzing the interaction among movement organizations sharing many of the same political and social goals.

Studying CCLOs and their role as movement organizations for the Christian Right sheds light on influential actors in American political and legal mobilization, as well as on the role of law in social movements and the role of religion in legal advocacy. But more than that, this study also explores the more fundamental question of how distinct organizations interact, cooperate, and compete in a shared social movement. By exploring how these groups adopt certain causes, strategies, and tactics relative to other groups in the same industry, in addition to how differences in these areas affect the dynamics among these groups, this study offers an in-depth account of interaction and mobilization among social movement organizations in American politics and society.

Critical Concepts for CCLOs

I posit there are certain concepts critical to the development of and interaction among CCLOs. These concepts, while varied, are each important to understanding why CCLOs behave

the way they do as social movement organizations in their unique industry—or policy community—of the Christian Right (Zald and McCarthy 1979; Walker 1991). These concepts illustrate that there is more to the character of the CCLO industry than policy goals, as most CCLOs share most, if not all, of the same broader agenda. These concepts help constitute a CCLO's organizational identity, the unique character of which affects how like-minded yet distinct social movement organizations exist and interact in the same movement industry. I argue that there are three main concepts or variables critical to the evolution and development of legal advocacy groups as unique and established actors in their social movement industry, as well to their actual work in legal advocacy. Simply put, I argue that these three concepts help form a group's organizational identity.

First, *Organizational Structure* speaks to how a given a legal group's composition and construction as a legal advocacy organization influences its actions and efforts; a major division in this concept is centralization versus decentralization, or reliance on staff attorneys versus reliance on affiliated or allied attorneys (Wasby 1995). It is reasonable to assume that public interest legal organizations can be expected to differ in their construction of this concept, with some embracing almost total reliance on staff attorneys and others essentially farming their work out to a network of affiliated attorneys. But, as this study will show, CCLOs actually tend to exhibit a great deal of nuance in how they are structured; for CCLOs, this variable is not dichotomously arranged. Importantly, this concept should be read to capture the resources (namely, the financial strength) of a given legal group in addition to how the organization is structured professionally.

Second, *Organizational Expertise* alludes to the skill sets or organizational emphases (including case selection and issue focus) of a particular legal group that sets it apart from other

groups in its industry. Put another way, this concept captures an organization's niche within the broader industry of legal advocacy. It is uncontroversial to suggest that it is important for a CCLO—or any movement organization, really—to distinguish itself among its fellow organizations; such distinction fosters organizational survival in the unavoidable realm of finite and limited resources (McCarthy and Zald 1977). In this study I show that, while rallying around a broad agenda, CCLOs adopt unique causes and issue emphases that differentiate their work from similar, like-minded organizations. These unique causes contribute to the non-monolithic nature of the CCLO industry, while at the same time affecting the competitive and cooperative dynamics among these groups.

Finally, *Organizational Relations* considers the fostering of cooperation or competition among legal advocacy groups, and considers how these groups coexist in the face of variation in groups' causes, strategies, and tactics. Indeed, this concept factors heavily into my findings of how like-minded yet distinct organizations interact with one another. Despite sharing stances on legal and public policy, CCLOs tend to pursue their causes alone and without assistance from or regular collaboration with other CCLOs. And, as this dissertation will show, CCLOs do utilize different strategies and tactics in pursuit of shared goals and causes; this contributes to a diverse atmosphere in the realm of Christian legal advocacy. How, then, do legal groups interact with other organizations in their industry? Essentially, who is friends with whom, and what contributes to these relationships? Throughout this dissertation I explore how the attorneys at these groups conceive of their CCLO's role in this unique industry of Christian Right advocacy, while also explaining how the composition of the Christian legal mobilization industry affects the interactive dynamics among rival yet like-minded groups. Much of the support for this concept's development will come from these kinds of sources.

These concepts will be developed as this dissertation unfolds, specifically, in the content analysis of CCLO primary sources, in the network analysis of CCLO activity in case sponsorship and amicus curiae filings, and in interviews with the attorneys identifying with these organizations. In each of the forthcoming chapters, it will be worth dedicating time to exploring each concept's development in light of the chapter's respective data and analysis. As these concepts are developed—and, just as importantly, as the factors contributing to these concepts are discovered and outlined—they will add clarity to the discussion of the nature of the CCLO industry and the variance across the range of CCLOs' causes, strategies, and tactics. These variables, working in tandem, help explain the structure and workings of CCLO industry at the organizational level.

Additionally, these concepts contribute to each group's organizational identity, helping to explain why some Christian cause lawyers are attracted to some of these groups over others. These concepts also explain why some organizations are more politically driven than others, why some are more amenable to compromise and coalition-building, and why some are more principled in their approaches at the expense of immediate success. As such, these concepts may prove useful in future studies of legal mobilization beyond the context of Christian Right legal advocacy, as they may be applied to other public interest legal groups from a variety of social movements and contexts.

DEFINING CAUSES, STRATEGIES, AND TACTICS

In this study I explore and analyze the range of causes, strategies, and tactics in the CCLO industry, in order to highlight the distinctions among CCLOs and the nature of Christian conservative legal advocacy in the United States, all to comment on how these organizations

interact with one another in a shared social movement. But what exactly are causes, strategies, and tactics, as I reference them in this study?

First, I propose a *cause* to be an issue (or collection of issues) that an organization emphasizes as critical to their work and efforts as public interest legal organizations. Causes provide movement organizations with direction and focus, as they concentrate their efforts in defending or promoting specific causes at the expense or opposing causes or issues. According to the data presented in this study, there are three major causes to which every CCLO focuses time, effort, and resources: the sanctity of life, traditional family values, and religious freedom and liberty.¹⁵

Second, *strategy* refers to how a movement organization, on a broad, foundational level, chooses to pursue a specific cause or series of causes. Organizational strategy cannot be identified with one glance at a legal group's activity at one moment in time. Instead, in identifying an organization's strategy the observer must examine the organization over time. In order to understand how a legal advocacy group operates strategically (in the context of its press releases, legal filings, and other sources) one must read these sources contextually and relative to one another. In other words, it would be unwise to attempt to characterize a CCLO's strategy from only one press release or legal brief.

Finally, *tactics* are the mechanisms by which a legal organization implements its underlying strategy in pursuit a given cause. Tactics may include specific instances of issue framing, case adoption, drawing attention to specific issues and causes, and the like. Thus, specific tactics, as opposed to broader organizational strategies, can be identified in individual sources of organizational activity. These tactics, when read together and in context of one

¹⁵ Not coincidentally, these are the causes most highlighted by CCLOs in their mission statements and organizational language. But these three are not the *only* causes important to these groups, as a later exploration of CCLO niche areas and unique causes makes clear.

another, provide a glimpse into a legal group's overarching strategy. Put another way, identifiable and consistent trends in tactics point to an organization's strategy.

Methodological Approaches

In this study of CCLOs and their role as social movement organizations engaged in legal mobilization in their religious movement, I use and rely upon three research methods: content analysis of CCLO primary sources, including press releases and legal briefs; original interviews with CCLO lawyers, both staff attorneys with the various groups and pro bono, affiliated attorneys; and social network analysis of the CCLO industry. I utilize content analysis to code and organize thousands of original CCLO sources, collecting these groups' press releases, amicus curiae briefs, and documents pertaining to the cases they sponsored. After developing a coding scheme throughout the coding process (and then recoding the data according to these scheme), I am capable of discussing the issue areas in which CCLOs are most active as well as their preferred methods of advocacy.

Social network analysis, meanwhile, gives me the opportunity to visualize the CCLO industry and community of Christian conservative legal advocacy, considering the ties and connections among organizations in terms of amicus curiae participation and direct case sponsorship. Social network analysis allows me to answer questions about the structure of the network and the unique roles that organizations play in this network. While mostly descriptive in nature, this analysis plays a foundational role in informing and contextualizing other findings of this study, making its inclusion extremely important.

Finally, interviews allow me to explore the consequences of this variation on the CCLO industry. Adopting a semi-structured approach to conducting interviews allows for a standard format and battery of questions across interviews, while simultaneously allowing individual

interviews to develop and evolve as needed, depending on the answers to my questions. By speaking with movement attorneys and asking them for their thoughts on organizational proliferation, diversity, interaction, and the like, I am able to draw conclusions about the dynamics among organizations in a crowded, non-monolithic social movement industry.

These research methods are not the only methods by which the questions central to this study can be answered, but they are effective methods for producing answers to these questions. These methods also work well together in addressing various components of this study's purpose. Content analysis allows me to dissect the primary sources at the heart of CCLO activity, and to delve into the different arenas of advocacy home to CCLOs . Social network analysis allows me to present and consider the structure of the Christian conservative legal industry, conceptualized in terms of amicus curiae filings and case sponsorship activity; this touches on how CCLOs interact in a shared movement industry. And interviews allow me to speak to the attorneys central to these organizations and to the Christian legal advocacy movement, in addition to exploring how these attorneys see their groups interacting with one another (cooperatively, competitively, or independently).

These methods are appropriate tools for answering the questions posed in this study, questions that center on the role of law and legal mobilization in social movement activism and the role of organizational identity in structuring and explaining the interaction among various movement organizations constituting the same movement industry. Furthermore, each of these methods provides unique insight and answers to the questions posed in this dissertation. When read together, the following chapters and their methods provide a full account of how social movement organizations interact as members of the same movement industry, using Christian legal groups as an in-depth case.

Dissertation Outline

This dissertation is composed of six chapters, including this introductory chapter. This chapter has included an overview of the puzzle to be explored in this study, the literature this study draws on, a brief history of legal mobilization in the Christian Right, an introduction to the three concepts guiding the analysis in this dissertation, and a brief discussion of the methods I use to address the puzzle and answer the questions at the heart of this study. In this introductory chapter I hope to have established the parameters of this study, and, by highlighting the value and generalizability of the question, puzzle, and topic, to have justified the execution of this study in the broader arena of scholarship in interest groups and organizations, sociolegal studies and legal mobilization, and religion and American politics.

Chapter two presents a framework for studying CCLOs as influential movement organizations in the Christian Right. I define and explain key terminology for this study, including the components of the term “CCLO” that make these groups stand out among other movement organizations in the Christian Right; this term, I argue, constitutes a unique industry in this movement. With this terminology introduced and explained, I then turn to the CCLO industry itself, identifying those groups not belonging in the same industry as CCLOs and listing the CCLOs to be studied in the remaining chapters of this dissertation. In this chapter I pay specific attention to organizational structure among CCLOs, especially as I introduce each group and briefly discuss each group’s distinct organizational characteristics.

In chapter three I explore the range of causes, strategies, and tactics (after necessarily defining each of these terms) CCLOs in pursuit of the goals of the Christian Right. In this analysis I explore the various causes CCLOs pursue and, more interestingly, the unique ways in which CCLOs differ in their pursuit of these causes. In doing so I analyze CCLOs’ primary

sources and media accounts of their action, taking into account the issues CCLOs, focus on, the strategies and tactics they use to do so, and the language and rhetorical framing they employ when discussing these issues in both legal and popular (to their constituencies) settings. These findings shed light on the variance among CCLOs and the varying nature of this social movement industry: even though these organizations share most of the same broader agenda, they are not always unanimous in their views of how to best pursue this agenda. This chapter specifically speaks to how organizational expertise differs among like-minded groups in the same social movement industry, setting the stage for later discussions of what organizational expertise can tell us about a organizational identity and interaction among organizations.

In chapter four I utilize social network analysis (SNA) to further explore the structure and organization of the CCLO network. This network will be conceptualized in two primary ways: amicus curiae participation before the Supreme Court and case cosponsorship at the various levels of state and federal courts. Using SNA in this study will allow me to map the network of CCLOs as an organized industry of the Christian Right, providing a visual depiction of this network seen in various lights. But SNA will also allow me to identify the key players in the CCLO industry, which will, when corroborated with other measures of influence and activity within this industry, point to the most central and influential CCLOs (and even some non-CCLOs) involved in legal advocacy on behalf of the Christian Right. Finally, the analysis in this chapter will identify the various constituencies of actors involved in Christian legal advocacy, pointing to different “cliques” (or coalitions) among CCLOs and their partners. These different constituencies are illustrative of the variation among like-minded movement organizations and the nature of the industry of Christian conservative legal advocacy. This chapter specifically addresses the concept of organizational relations in a structured, easily measured fashion, leading

to a better understanding of how this concept affects organizational identity in social movement organizations and the interaction among these groups.

In chapter five I explore the effects of variation in the CCLO industry on the organizations comprising this industry, paying close attention to how these groups interact with one another in a multi-organization environment. That is, I continue to examine the concept of organizational relations among similar, like-minded movement organizations. Specifically, I ask, to what extent does variation in causes, strategies, and tactics among CCLOs influence the dynamics—cooperative, collaborative, and competitive—in this community? Support for these findings are gleaned primarily from interviews with lawyers affiliated with the CCLO industry, but I also draw on CCLOs' primary sources and media accounts of CCLO activity in various contexts. This chapter offers a more nuanced account of organizational relations among CCLOs, compared to the more structured account presented in chapter four.

Finally, in the sixth and concluding chapter I restate this study's key findings, highlighting this dissertation's contributions to the broader body of political science and sociolegal scholarship. I then discuss how the different sources of data collected for this study speak to each other, and what this can tell us about social movement organizations, legal mobilization, and Christian Right advocacy. This discussion clarifies and justifies my use of methods and analysis in this study, while simultaneously explaining how these methods aided in the conceptual development in this dissertation. I also spend time summarizing the development of organizational structure, organizational expertise, and organizational relations as contributing elements of organizational identity, discussing what these concepts mean for CCLO advocacy and what they tell us about how groups in the same movement industry interact. Finally, I point to this study's shortcomings, while suggesting areas of future research.

CHAPTER TWO

ORGANIZATIONAL STRUCTURE: IDENTIFYING THE CCLO INDUSTRY

“[Liberals] are controlling the narrative; we have to control the court battle.”

--- Sharee Langenstein

Affiliated attorney, Alliance Defending Freedom

Christian conservative legal organizations (CCLOs) comprise an industry of a social movement advocacy in the United States, pursuing the goals and interests of the Christian Right in the legal realm. But being part of the same movement industry does not mean that they are monolithic. In fact, each CCLO is a distinct organization with its own tactics, strategies, and even causes, not to mention its unique organizational identity composed of structure, expertise, and relations with other groups. This study aims to identify the composition and structure of the CCLO industry, to explore the extent to which variation among CCLOs exists, and to explain the effect of this variation on interaction among CCLOs. I argue that variation in strategies and tactics among CCLOs, while providing more potential avenues for victory for the broader Christian Right, leads to differences in interaction among these organizations.

For this study to be successful I must first explicitly outline the organizations comprising this unique industry of the Christian Right in American politics. But how should this be done? By what criteria should CCLOs be identified and categorized as such? Just as in the previous chapter I presented three concepts critical to this study and to organizational identity among social movement organizations, in this chapter I break down the term “CCLO” in a detailed fashion and describe the various indicators of a CCLO, while at the same time providing justification for including specific criteria and definitional elements of these criteria.

After introducing the criteria by which to identify CCLOs, I then introduce the CCLO industry. I do this in two steps: first, I discuss the organizations *not* belonging to this community based on various definitional criteria; and second, I provide a brief history of and background on each CCLO included in this dissertation, as well as an introduction to each group's mission, resources, and specific issue orientation.

What is a CCLO?

A CCLO, as defined for this dissertation, is *a multi-issue social movement organization dedicated to the interests of the Christian Right through legal means, strategies, and tactics.*¹ By “multi-issue,” I am suggesting that the group has a broad range of causes and interests it pursues. These are the kinds of organizations Shields (2009) categorizes as “multipurpose.” For a legal organization to be considered a CCLO, it must adopt an agenda consistent with the broad, multi-issue agenda of the movement with which it is affiliated. As with any Christian Right organization, CCLOs have a broad agenda, ranging from religious liberty to marriage to abortion and beyond. Christian conservative legal groups adopt a comprehensive agenda in their work as public interest legal groups on behalf of the Christian Right.

The term “CCLO” involves three primary indicators or conditions. This term was conceptualized for this dissertation not only to identify relevant groups for exploration, but also to act as a sort of filter in separating these groups from other organizations inappropriate to study in the context of this project. In order for an organization to be characterized as a CCLO, it must meet all three of the following conditions.

¹ I coined the term “CCLO” after careful thought and consideration. I had initially proposed the term “CELO” (the “E” standing for “Evangelical”), but determined that CCLO was more inclusive of all Christian conservative legal groups – Protestant or Catholic. As such, this acronym is unique to this study. At the same time, it is a term that each identified group would find reasonable, mainly because it is a departure from the “Christian Right” label more often used by political liberals and academics.

CHRISTIAN –

One way to characterize organizations as “Christian” is to identify ties or connections to the established Christian political community. But what about groups without such ties to this broader community? For example, Liberty Counsel was founded independently of any outside Evangelical Christian influence; Jerry Falwell’s connection to LC came many years after the firm’s 1989 inception (Hacker 2005). Prior to this association with Falwell, would LC have been seen as a Christian legal group? I argue that it would have been (indeed, in this study I argue it was and remains a CCLO), but classifying legal groups as Christian based solely on connections to the broader Christian political community seems problematic, especially when these ties may not exist for one reason or another.

I propose to classify a legal group as a Christian one based not only on the organization’s affiliation with the broader, explicitly Christian population of movement organizations, but also on the group’s missional and purposive language and issue-framing emphases. For example, if the organization speaks of the Judeo-Christian values instrumental to the United States’ founding and morality, then this is an indication that the group is Christian. Similarly, if a group were to talk about the importance of “protecting the spread of the gospel,” then the group is likely Christian. Identifying a legal group as Christian based on its ties to the larger Christian community, *and* based on how the group articulates and emphasizes its positions to the movement’s adherents and constituents, is the most complete and comprehensive way of identifying the groups to include in this study.

Two notes bear mentioning. First, I understand “Christian” broadly in this study. I do not, as a matter of conceptualization, define what it means for an organization to be Christian in terms of specific theological or doctrinal criteria. A group’s claim to be Christian—or evidence

indicative of such a claim—is taken as evidence of it being so. In this way, I rely on how the organization presents itself in order to determine whether or not the group is a Christian one.

And second, previous research has suggested that Catholic legal groups and Protestant legal groups conceive of the law and their legal efforts in a fundamentally different manner, especially in terms of the role of ideas in shaping legal involvement and mobilization (den Dulk 2001). But since this study is focused on the Christian Right and the organizations engaged in legal mobilization for its interests, such distinctions between Catholic and Protestant need not be as carefully considered here. In fact, in this realm writers have identified “a kind of cross-pollination between Evangelicals and Catholics that has taken place in recent decades. That interaction began in earnest in the 1980s as conservative Evangelicals and conservative Catholics began collaborating in the battle against abortion” (Gibson 11 January 2011). Put another way, it makes no difference for the aims of this study whether a CCLO identifies as Protestant or Catholic, so long as it qualifies as a CCLO under the categories outlined presently.

CONSERVATIVE –

While there is often overlap between religious conservatives and political conservatives, they are, fundamentally, distinct. Previous studies on the conservative legal movement in the United States have defined the movement through an alignment of various constituencies with the modern, Reagan-inspired Republican Party; these constituencies include business interests, patriotic nationalists, libertarians, and religious conservatives (Southworth 2005; Hatcher 2005; Paik et al. 2007; Southworth 2008; Teles 2008). In the context of this particular study, then, “conservative” specifically refers to social conservatism (Paik et al. 2007; Southworth 2008). In addition to past research identifying this kind of conservatism as central to religious conservative legal groups’ agendas, the Christian Right overwhelmingly engages in advocacy on socially

conservative issues compared to other conservative political issues. While limited government and low taxes (other conservative policy areas traditionally adopted by the Republican Party) may be on the agenda of a Christian legal group, if these goals are identifiably more important than social conservative goals (as determined via the group's mission statement), then the group should not be classified as a CCLO.

Social conservative policy goals include restricting and even forbidding abortion as a medical procedure, fighting against the establishment and acknowledgment of same-sex marriage and unions, and pushing for the abilities of religious groups—particularly Christians—to practice their faith openly in the public square without interference from the government (Campbell and Monson 2008; Shields 2009). Including such issues in a definition of social conservatism is consistent with previous research, and although these issues are not the only issues on social conservatives' radars, they are some of the most salient (Himmelstein 1983; Wilcox and Robinson 2011). As will be seen, CCLOs make these kinds of issues central to their litigation and litigation-related activities, and these issues serve to establish a floor (but not a ceiling) for action among legal groups in order for these groups to be classified as a CCLO. Such groups can engage issues apart from those referenced above, but if these social issues are not important to a group, then the group should not be described as a CCLO.²

LEGAL –

A group should not be considered a CCLO unless its primary organizational purpose involves legal mobilization. One may determine whether or not groups meet this component simply by looking at organizational statements of origin or mission statements as posted on their

² It is no coincidence that these first two components of CCLO (Christian Conservative) essentially describe the contemporary Christian Right in American politics, especially with an emphasis on social issues over other conservative values.

websites and in their various literatures. It is also helpful to consult the National Center for Charitable Statistics and search for how groups describe their efforts for tax purposes; a group's National Taxonomy for Exempt Entities (NTEE) code is an excellent vehicle for discovering how the organization (not the government) describes itself and its purpose.

Using these methods for determining the primary purpose of a group, one can see how this further winnows the sample of organizations to consider in this study. Church-affiliated organizations—for example, like the National Council of Churches and the U.S. Conference of Catholic Bishops—may indeed have a general counsel or legal office, the purpose of which is to reactively defend or proactively pursue the interests of the body, but this legal office is not the primary reason for these organizations' existence. Indeed, litigation, while potentially effective, is a secondary activity for these church-affiliated groups, and thus should not be included as movement organizations under consideration and analysis here.

Further, some of the more popular and successful Christian Right advocacy organizations—like the Family Research Council and Concerned Women for America—focus more on grassroots lobbying and political mobilization than on legal mobilization. And while legal mobilization is certainly a component of these groups' strategies for pursuing their broad policy agendas (Moen 1992), litigation is not the principle activity of such groups. Given that this dissertation aims to explore and analyze the activities of a particular body of social movement organizations comprising a unique industry of conservative Christianity in American politics, I should focus my efforts on those movement organizations clearly identifying as organizations dedicated to litigation and related activities as their primary methods of action.

The CCLO Industry

With these criteria and components of the term “CCLO” outlined, and the concepts central to CCLO development introduced, I now turn to a brief introduction of the CCLO industry, including a discussion of the groups excluded from this industry and an introduction to each CCLO occupying a distinct place in the realm of Christian conservative legal advocacy.

EXCLUDED GROUPS

There are some groups that, at first glance, appear to fit the CCLO mold as described in the preceding section. But appearances can be deceptive. In this brief section I highlight organizations that, while sharing many qualities with CCLOs, simply do not belong in the same conversation as CCLOs, at least given the purpose and the scope of this dissertation. Previous research has included some of the following organizations in their analyses of conservative Christian litigation (den Dulk 2001; Brown 2002), but in this study I aim to make a clearer distinction between CCLOs and Christian organizations engaged in (or occasionally engaged in) litigation and legal mobilization.

There are three primary reasons why an organization *resembling* a CCLO should not be considered an *actual* CCLO. First, early in this chapter I established that CCLOs (at least in the context of this study) must be multi-issue groups; that is, they must be organizations that regularly litigate or mobilize in more than one issue area of law and policy (this is owed to the expansive nature of Christian Right political activism). Therefore, even though several legal organizations may be socially conservative and may have ties to the Christian community, not all of these groups will be included in this dissertation as CCLOs. I am referring to groups dedicated to or specializing in one particular issue area (or, single-issue groups). I make a purposive

decision regarding the range of organizations to examine and analyze, effectively limiting the scope of this study to avoid selection bias.

My rationale is not arbitrarily drawn: CCLOs are multi-issue groups, engaging a broad policy agenda via litigation and extralegal activities, and thus operate in a different industry than single-issue groups. For comparison's sake, the same could be said when comparing non-legal advocacy organizations like FRC and Operation Rescue: the former group is larger, broader, and has a foot in several policy areas, while the latter group is smaller, narrower, and focuses solely on abortion. While both of these groups would undoubtedly identify with the Christian Right, they are not in the same industry of their movement. The same can be said for multi- and single-issue legal organizations tied to the Christian Right. Future studies may want to compare the efforts and strategies of single-issue groups to multi-issue groups, and whether different kinds of organizations see varying degrees of success. But including single-issue groups in this study on diverse, multi-issue CCLOs would be methodologically mistaken. See Table 2.1 for a list of these groups, the issue on which they focus the bulk of their attention and resources, and an account of their financial resources.

Second, some advocacy organizations, while engaging in legal mobilization in pursuit of their goals and the goals of the Christian Right, are not focused solely on legal mobilization in their efforts; they should thus not be considered CCLOs. Included in this community of movement organizations and interest groups are some of the more well known entities in Christian Right activism. And while their resources do provide these organizations with the opportunity to occasionally become involved in litigation and related activity, reviewing their mission statements and related statements of purpose reveals that litigation is not their primary

method of activism. Therefore, these groups should not be considered CCLOs. See Table 2.2 for a list of these organizations, the issues they focus on, and an account of their financial resources.

Table 2.1 – Christian single-issue legal organizations

CCLO	Founded	Primary Issue	Budget (2010)
Americans United for Life	1971	Abortion	\$3,683,717
Becket Fund for Religious Liberty	1994	Religious Liberty	\$2,692,006
Christian Law Association	1969	Church-State Relations	\$3,157,870
Home School Legal Defense Association	1983	Education	\$9,296,958
James Madison Center for Free Speech	1997	Political Expression	\$135,000
Liberty Institute	1997	Religious Liberty*	\$2,482,263
National Institute of Family and Life Advocates	1993	Abortion	\$803,107
Thomas More Society	1999	Abortion**	\$1,439,802

* - LI declares they are dedicated to multiple issues in their tax filings, but a search of their website and mission statement suggests they are principally dedicated to one issue: religious liberty. Additionally, they were originally founded as the Free Market Foundation and principally dedicated to economic liberty.

** - TMS only recently broadened its focus to address issues other than abortion; future research may want to include this organization as a multi-issue CCLO.

Table 2.2 –Christian Right advocacy organizations

CCLO	Founded	Located	Budget (2010)
American Family Association	1977	Tupelo, MS	\$19,600,741
Concerned Women for America	1979	Washington, D.C.	\$8,277,316
Family Research Council	1980	Washington, D.C.	\$12,516,855
Traditional Values Coalition	1980	Anaheim, CA	\$8,658,511

And third, denominational bodies with an office or division of a general counsel are also excluded from in-depth study in this dissertation; as their primary organizational purpose is not mobilize the law on behalf of the Christian Right, they simply cannot be considered CCLOs as defined for this dissertation. For a list of these groups and the issue(s) to which they commonly dedicate their time and resources, see Table 2.3.

Additionally, there are organizations that would have been considered CCLOs in the past, but now no longer should be characterized as movement organizations litigating and acting on behalf of the Christian Right. The Rutherford Institute is one such example. Founded in 1982 by John Whitehead, Rutherford is one of the older and more established organizations in this realm of legal advocacy. Previous research has treated Rutherford as a litigating organization for the Christian Right, and rightly so (den Dulk 2001; Boston 2000; Brown 2002; Moore 2007). But for the present study and in the present day, Rutherford simply does not belong in the same industry as the CCLOs introduced and outlined below. This is largely due to the evolution of the organization relative to other CCLOs and other entities under the traditional umbrella of the Christian Right.

Rutherford's recent activities and issue emphases no longer characterize it as in the same league as CCLOs; indeed, of the components of the term "CCLO," Rutherford does not meet the "conservative" component to the same extent as CCLOs. Per its mission statement Rutherford is still a staunch defender of religious liberty, but its approaches to the issues of abortion and same-sex marriage are more pragmatic—and arguably more progressive—than CCLOs' approaches.³

³ On abortion, Whitehead has written: "The only way to effectively prevent abortions *right now* [original emphasis] is to ensure that pregnant women have viable alternatives to abortion. . . . Rather than spouting platitudes about choice or religion, we need to . . . help women faced with a difficult, life-changing decision" (Whitehead 10 November 2008). Additionally, Whitehead has also addressed same-sex marriage and California's Prop. 8, writing, "Despite all the money (\$40 million and counting), politicking, fundraising and energy that conservative Christian groups put into defeating gay marriage in California, nothing was accomplished in terms of shoring up the traditional family structure" (Whitehead 9 August 2010).

Also, its mission statement includes issues not found among CCLOs, including search and seizure and government intrusion into a person’s life; attention to these issues prompted

Table 2.3 –Denominational organizations

CCLO	Founded	Located	Affiliation
National Association of Evangelicals	1942	Washington, D.C.	Evangelical Protestant
National Council of Churches	1950	New York, NY	Mainline Protestant
U.S. Conference of Catholic Bishops	1966	Washington, D.C.	Roman Catholic

Rutherford to condemn a Virginia law proposing transvaginal ultrasounds for women seeking abortions, something other CCLOs would not have dreamed of doing (Rutherford 20 February 2012). In the context of Rutherford’s own words and depictions of its own activities, the contemporary Rutherford Institute more closely resembles a civil libertarian legal organization than a CCLO. It should therefore not be included in this study of CCLOs.⁴

One could argue that by focusing this study on CCLOs, defined as multi-issue movement organizations dedicated to the interests of the Christian Right through legal means and tactics, I am exempting other valuable groups from analysis and overlooking variation they might exhibit. Indeed, social science research (and case studies in particular) depends on variance to explain phenomena. However, in this study I suggest that there is plenty of variation among CCLOs to explore the interaction among them. This justifies my decision to limit my sample in this study to only CCLOs. Furthermore, I want to be sure I am comparing “apples to apples” in this dissertation, and including CCLOs and non-CCLOs would not be doing this. Future studies

⁴ The Center for Law and Policy was also included in earlier studies on Christian legal mobilization (den Dulk 2001; Hacker 2005), but, as it is now defunct, it will not be included here.

could compare CCLOs with other organizations, including single-issue organizations and those interest groups and movement organizations only occasionally engaging in legal mobilization on behalf of the Christian Right. But in this study, where the focus is exclusively on those movement organizations where legal mobilization and legal advocacy is central to their organizational identities, bringing in other groups not meeting the criteria outlined above is unnecessary.

INCLUDED GROUPS

With the theoretical elements of the term “CCLO” introduced, and with an index of groups to be excluded (on the basis of various criteria) established, I can now list the organizations to be included in this study of CCLOs and their role as litigating agents on behalf of the Christian Right in American politics. These are the six organizations meeting the criteria of the term “CCLO” as described above, each one pursuing a multi-issue agenda, relying on litigation (and related action) as its primary advocacy methodology, and not directly affiliated with a particular denomination or church. The following chapters will more deeply analyze these groups and their interactions with one another, so for now, an introduction to each organization and their structures will suffice. For a concise introduction to these CCLOs, see Table 2.4.

Alliance Defending Freedom

ADF was formed in 1994 with support from key actors in the conservative Christian community, including James Dobson, D. James Kennedy, and Bill Bright. ADF describes itself as “a servant organization that provides the resources that will keep the door open for the spread of the Gospel through the legal defense of religious freedom, the sanctity of life, marriage and

the family” (ADF, “About ADF”). At its outset, ADF viewed itself not as another law firm, but as “a project to coordinate case loads between firms, to recruit and train lawyers, and, most

Table 2.4 – Christian conservative legal organizations

CCLO	Founded	Located	President/ Chief Counsel	Budget (2010)
Alliance Defending Freedom	1994	Scottsdale, AZ	Alan Sears	\$35,145,644
American Center for Law and Justice	1990	Virginia Beach, VA	Jay Sekulow	\$58,182,664*
Center for Law and Religious Freedom	1975	Springfield, VA	Kim Colby	\$300,000#
Liberty Counsel	1989	Orlando, FL	Mat Staver	\$1,371,795^
National Legal Foundation	1985	Virginia Beach, VA	Stephen Fitschen	\$166,981
Thomas More Law Center	1998	Ann Arbor, MI	Richard Thompson	\$1,468,241

* - Includes budget from Christian Advocates Serving Evangelism, of which the ACLJ is inextricably linked

- Budget data from the Christian Legal Society

^ - Latest available budget data is from 2006

importantly, to bankroll cases” (Diamond 1998, 85).⁵ But more recently, it has broadened its focus, stating that they are involved in four facets of work on behalf of the Christian Right: strategy, training, funding, and litigation. ADF states that it has had its hand in over three dozen victories before the U.S. Supreme Court, and boasts that it wins over three-quarters of the cases it sees litigated in any courtroom (ADF, “About ADF”).

Alan Sears has guided ADF’s litigation, training, and funding efforts since the organizations inception. Sears has written several books on social and legal issues, and is a regular contributor and guest to a variety of radio, television, and online media outlets. Sears also

⁵ In 2012 ADF changed its name from “Alliance Defense Fund.” The new name reflects the organization’s shift away from its original purpose: funding and bankrolling cases and other legal endeavors on behalf of Christian Right interests.

heads up training programs for Christian attorneys through ADF, equipping these lawyers to more effectively pursue the Christian Right's interests via litigation and related means. ADF relies upon this network of affiliated Christian attorneys rather than relying solely on in-house lawyers. ADF also utilizes a team of in-house litigators to occasionally engage cases involving the issues important to ADF. Their victories do not always end with a decision by a court; they can include the settlement of lawsuits or changes in policy prior to the start of litigation, outcomes consistent with the strategies of cause lawyers as mentioned in the sociolegal literature (McCann 1994; Paris 2001).

ADF does not have a strong media presence in terms of radio and television exposure, especially when compared to other CCLOs. ADF does deliver daily emails to subscribers called "Alliance Alerts," which serve as a sort of aggregation for press releases in the arenas of religious liberty and life and family matters, whether ADF is directly involved or not. In this way, ADF appears to be attempting to educate and inform subscribers without always tying in their own involvement in making the case for support, financial or otherwise.

ADF touts their organization's ability to work with other groups pursuing similar goals, both in the legal realm and in the policy realm. For example, in addition to listing both the American Center for Law and Justice and the Thomas More Law Center—both CCLOs—as strategic partners, ADF lists the conservative Federalist Society and the libertarian Institute for Justice as legal allies, even though both are not Christian organizations. ADF also counts several Christian conservative extralegal organizations, including Family Research Council, Heritage Foundation, and WallBuilders, as partners in their endeavors (ADF, "Allied Organizations").

One of ADF's founders once said that the organization "gives Christians a unique way to fight back against the radical attacks of groups like the ACLU, homosexual activists, and anti-

family activists” (ADF, “Leadership”). In their litigation activities, their media outreach strategies, their partnerships with like-minded groups, and their attorney training programs, ADF has striven to create a well-balanced, multi-pronged proactive attack against groups and interests they perceive to be threatening the conservative Christians in American society.

American Center for Law and Justice

The ACLJ was founded in 1990 with support from Pat Robertson, who sought to utilize the strength of his political arm, the Christian Coalition, to establish a legal organization on behalf of the Christian conservatives that would serve as a counterweight to the American Civil Liberties Union (Sekulow 3 January 2005).⁶ The director and chief counsel at the ACLJ is Jay Sekulow, who has been with the organization from its inception. Sekulow is arguably the most visible Evangelical Christian attorney in America, given his daily radio show, *Jay Sekulow Live!*, and his appearances on many major news networks and in a variety of print sources, including many recent appearances on Fox News. It is not controversial to say that Sekulow, to some extent, *is* the ACLJ, at least in terms of growing it to its contemporary level of success and notoriety within the Christian legal advocacy industry.

The ACLJ’s team of senior attorneys includes three who attended Pat Robertson’s Regent University School of Law; other attorneys were trained at a variety of institutions, including the law schools at Yale, Notre Dame, and George Mason University. The ACLJ specifically touts cases reaching the U.S. Supreme Court in which the organization, through Sekulow, was involved (ACLJ, “Supreme Court Cases”). By highlighting these cases, most of them dealing with abortion, same-sex marriage, and religious liberty, the ACLJ presents itself as consistently engaged on behalf of the Christian Right in the legal realm. In terms of institutional structure, the

⁶ CCOs consistently highlight their opposition to (and victories over) the ACLU.

ACLJ is actually affiliated with Sekulow's older venture, Christian Advocates Serving Evangelism (CASE). In fact, in every ACLJ email there is fine print indicating that the ACLJ is actually a d/b/a for CASE.

In addition to engaging in litigation and related activities, the ACLJ is very active in generating awareness on a number of issues important to the constituents of the Christian Right. Their website is updated daily and they frequently send out email updates to subscribers with information on ongoing causes, breaking news, and, of course, pleas for fundraising. These calls are often tied to visible political issues, such as the fate of the health care reform legislation championed by President Obama, as well as the plans to build an Islamic community center near the site of the September 11, 2001 terrorist attack in Manhattan. Indeed, the ACLJ is arguably the most politically partisan CCLO, frequently chastising the Obama administration on issues beyond its organizational mission (such as the "Fast and Furious" scandal, the attack on the American consulate in Benghazi, Libya, and the controversy over the IRS's focus on conservative groups seeking tax-exempt status). The rhetoric used in ACLJ communications and releases often frames the ACLJ's action as part of a battle or struggle, referring to a federal judge's ruling on the National Day of Prayer as an "attack" and urging supporters to "stand with us now" through prayer and financial generosity (ACLJ 22 April 2012).

The ACLJ is an influential member of the Christian conservative legal industry in the United States, and in recent years it has opened several overseas offices; its influence in legal mobilization is therefore not limited to the United States. Combining Sekulow's skills as a litigator with Robertson's resources has allowed the ACLJ to become a powerful and influential actor in the CCLO industry. Whether it is acting as counsel or filing as amicus curiae, the ACLJ's account of legal victories at the Supreme Court and in other venues is the most detailed

of the groups in their industry. Through litigation and public education primarily via media outlets, the ACLJ and their lawyers, with Sekulow taking the lead, appear situated to be influential among CCLOs and in conservative politics for years to come.

Center for Law and Religious Freedom

The Center for Law and Religious Freedom (CLRF) is unique among CCLOs primarily because it is contained within the Christian Legal Society, a professional association of Christian attorneys.⁷ CLRF is their legal advocacy arm, engaging the issues of significant importance to conservative Christians via legal and extralegal tactics. Despite not fitting the precise mold of other CCLOs described in this section, exploring CLRF's causes and activities plainly point to the Center as a legitimate CCLO as defined in this study, while the Christian Legal Society, being primarily a professional consortium of Christian attorneys, is not.

Unlike other CCLOs, who have for the most part seen stability in their leadership, CLRF has gone through several leaders since its creation over 30 years ago. Its current senior counsel is Kim Colby, who has been with the Center since 1981. Colby was instrumental in the passage of the Equal Access Act – which guaranteed religious groups and students the ability to utilize generally available public spaces, like schools – in 1984, and has written on and defended the Act on numerous occasions since then (CLRF, “Senior Counsel Kim Colby”). Previous heads of CLRF include Gregory Baylor, who now serves as a senior counsel for ADF, and Steven McFarland, now vice president and chief counsel for World Vision.

⁷ In this way, CLRF is similar to the Center for Law and Policy (CLP), the now-defunct legal office affiliated with the Christian Right group American Family Association (indeed, if it was still in existence the CLP would be included in this study as a CCLO). CLRF is sufficiently different from the legal arm of the Christian Right group Concerned Women for America, however, in that CLRF is an organizationally separate entity and works apart from the broader organization (Interview, Colby).

Describing itself as “America’s oldest Christian advocacy ministry for religious freedom,” CLRF was established in 1980 to litigate and advise Congress on issues of religious freedom and church-state relations (CLRF, “Center for Law and Religious Freedom”). The Center has evolved over time to take on other issues apart from religious liberty, most notably issues related to abortion and human life (den Dulk 2001). CLRF’s most frequent activities include case sponsorship and filing as amicus curiae. CLRF highlights these activities in its various annual reports, which also includes endorsements for the Center’s work in various areas of law and policy; on CLRF’s efforts in pro-life litigation, one lawyer writes, “CLS’ expert legal help, volunteer network, and determined advocacy for life from conception to medical death is making a unique and invaluable contribution to the pro-life movement” (CLS 2007). Despite a primary focus on religious freedom litigation and advocacy, CLRF has clearly made anti-abortion activities part of its organizational focus.

In the CCLO industry CLRF may seem to be an outlier: the Center does not regularly engage issues of same-sex marriage and unions, at least relative to other CCLOs.⁸ Additionally, it does not maintain a steady media presence to advocate their positions and work.⁹ Furthermore, previous research has even identified CLRF as moderate relative to other Christian legal organizations, particularly in terms of the Center’s ability to build coalitions across religious traditions in the name of a common goal (den Dulk 2001). CLRF has even worked with the ACLU in the past, although that partnership no longer exists. But given its emphasis on religious liberty and freedom and its more recent adoption of anti-abortion activities, as well as its reliance

⁸ CLRF’s attention to same-sex marriage and unions has increased in recent years, particularly in the context of how such unions would affect the religious freedom of Christians.

⁹ CLRF does produce a blog which highlights their work and links to other CCLOs, Christian Right organizations, and various research centers, but this has not been updated since 2009 (CLRF, “The Center Blog”).

on litigation as the primary vehicle for mobilization, CLRf clearly belongs in this study of CCLOs as movement organizations for the Christian Right.

Liberty Counsel

LC was founded in 1989 by its current chairman and lead counsel, Mathew Staver. Moore (2007) suggests that Jerry Falwell, the influential Baptist reverend and founder of the Moral Majority, helped establish LC, but this is simply not the case. Instead, Staver initially based LC out of his private practice, taking cases of salience to Christian conservatives and doing so without the impressive financial resources of other CCLOs (Hacker 2005). It was not until much later that Falwell reached out to Staver and LC for the chance to partner with his organizational apparatuses and resources, particularly the college he had a hand in establishing, Liberty University. But in the early years of LC's emergence on the scene of Christian conservative legal mobilization, LC was solely Staver's endeavor.

Under Staver's leadership LC has emerged as a steady, relevant actor in the Christian legal industry. In addition to several staff attorneys, LC is supported by the work of affiliate attorneys from across the country. Some of LC's victories have included securing the rights of pro-life individuals to assemble and present alternatives to abortion outside abortion clinics, defending two high school officials for praying over a meal prior to honoring donors to the school's athletic facilities, and successfully overturning a Florida judge's decision to grant custody of a child to a transsexual (LC, "Victories"). In addition to engaging in litigation and related activities, LC operates the Liberty Center for Law and Policy, a program designed to train law students, attorneys, and legislators in constitutional principles and government policies in line with LC's vision.

LC is active in generating awareness of major issues important to the conservative Evangelical community. A major target of LC has been the health care reform legislation championed by President Obama, described by LC as the “abortion healthcare bill” (LC 4 January 2010). LC is proud of its efforts to expose this legislation as unconstitutional, and argue that their published outline of the reasons why such legislation was unconstitutional “provided one of the main information sources that sparked a national outcry against government-run healthcare” (LC, “Victories”). Outside of its legal work, LC has cultivated a respectable presence through the media in both traditional and more modern venues. They regularly send email updates to subscribers detailing their activities and upcoming events in addition to alerting subscribers of news on important issues, like Congress’ repeal of the “Don’t Ask, Don’t Tell” legislation and the Obama administration’s decision to cease defending the Defense of Marriage Act in federal court. LC also produces a weekly television program as well as a brief daily radio spot discussing the issues LC regularly litigates, drawing attention to their activity as a movement organization on behalf of the broader movement.

What essentially began as a side project for Staver and his team of attorneys has turned into an influential actor in the CCLO industry. Despite having one of the smaller revenues of the CCLOs detailed in this chapter, LC has risen to prominence through strategic attention to particular issues and focusing on specific campaigns with strong appeal to the conservative Christian community at large. Under Staver’s leadership and with the resources provided it by Liberty University, LC is poised to remain a steadfast organization in the realm of conservative Christian litigation.

National Legal Foundation

The National Legal Foundation (NLF) was founded in 1985 with assistance from Pat Robertson, who later helped establish the ACLJ. Under the original leadership of Robert Skolrood NLF split from Robertson in 1988, but continued in its original mission (Martin 3 March 2008). Its current president and lead attorney is Steven Fitschen, who also teaches law at Robertson's Regent University. NLF exists "to prayerfully create and implement innovative strategies that, through decisive action, will cause America's public policy and legal system to support and facilitate God's purpose for her" (NLF, "About Us"). The issues motivating NLF include defending religious freedom and expression, "fighting the homosexual agenda," "defending the unborn," and fighting against pornography (NLF, "Our Activities").

Compared to other CCLOs, NLF's agenda and activities seem relatively lackluster. Their very small operating budget may explain this, as well as the fact that, including Fitschen, there are only three attorneys listed on the organization's website; according to Fitschen, NLF regularly employs between one and three lawyers, with the same number of administrative staff (Interview, Fitschen). Nevertheless, NLF does stay active in pursuing the agenda of the Christian Right through the legal realm. They do this primarily through filing amicus curiae briefs, at the Supreme Court and at various lower courts (NLF, "Our Activities"). While occasionally sponsoring cases, NLF is most active in filing these "friend of the court" briefs in cases salient to the Christian Right.

Of the movement organizations mobilizing the law on behalf of the Christian Right, NLF carries arguably the least influence and sway: it operates on the smallest budget and, by all accounts, employ the fewest attorneys of any CCLO. Nevertheless, its work, though limited, has

been consistent since its establishment over 25 years ago, making NLF a long-standing actor in the CCLO industry.

Thomas More Law Center

As an organization founded and run by conservative Catholics, the Thomas More Law Center (TMLC) is the only non-Protestant CCLO included in this study. But its inclusion in this study is absolutely necessary, a point that is evident when exploring the causes the TMLC pursues and the strategies and tactics it utilizes in pursuit of these causes. While not an Evangelical Protestant organization, TMLC is clearly a CCLO as defined for this dissertation.

Founded in 1998 and based in Ann Arbor, Michigan, the TMLC received initial support from Thomas Monaghan, the conservative Catholic founder of Domino's Pizza. The TMLC's president and chief counsel is Richard Thompson, who, prior to joining the organization at its formation, was the prosecutor for Oakland County in Michigan, near Detroit (TMLC, "History of the Law Center"). As a prosecutor Thompson won the hearts and minds of the pro-life community by prosecuting Dr. Jack Kevorkian for his complicit role in the deaths of several of his patients. Thompson has also been honored by many Christian Right organizations for his efforts, both as a prosecutor and as president of the TMLC (TMLC, "President and Chief Counsel").

Like most other CCLOs in this study, the TMLC focuses its litigation and legal mobilization efforts on the issues of abortion, same-sex marriage and unions, and religious freedom (especially, as the TMLC notes in its mission statement, for Christians) in the American public square (TMLC, "About the Thomas More Law Center"). The TMLC leaves no doubt regarding its preferred method of advocacy: "The Law Center's purpose is to be the sword and shield for people of faith, providing legal representation without charge. We achieve this goal

principally through litigation, seeking out significant cases consistent with our mission” (TMLC, “About the Thomas More Law Center”). The TMLC further describes itself as “the Christian response to the ACLU,” a claim echoed by other CCLOs in this study. The TMLC first garnered national attention in the early 2000s for its defense of a school board desiring to teach the theory of intelligent design in its classrooms (see *Kitzmiller v. Dover Area School District*). Despite losing the case, the TMLC’s efforts help put the Center on the map in the crowded CCLO industry (Boston 2000; Albiston 2011).

In addition to these more traditional CCLO issues, the TMLC is also engaged in a variety of efforts against Islam in the United States. Claiming “Radical Muslims and Islamic organizations in America take advantage of our legal system and are waging a “Stealth Jihad” within our borders,” TMLC has vowed to expose Islam as the threat they perceive it to be and to be “at the forefront of legal battle against this internal threat” (TMLC, “Confronting the Threat of Islam”). As will be demonstrated in later chapters, CCLOs must distinguish their work from other organizations in order to maintain relevance in a crowded industry of movement organizations; in the case of the TMLC, their consistent work against Islam gives them their niche.

CONCEPTUAL DEVELOPMENT

Although this chapter introduced the CCLO industry as a unique conglomeration of social movement organizations acting on behalf of the Christian Right, there is clearly an opportunity to reflect on what this information means for organizational structure as a concept in organizational identity among CCLOs. And although other concepts—like organizational expertise and organizational relations—were not as sufficiently developed from the data in this chapter, future chapters will be able to address those concepts in much greater detail.

Organizational Structure

The organizational structures of these groups are just as varied as the groups themselves, with some groups relying principally on staff attorneys to achieve their goals and pursue the interests of the broader movement and others relying on the work of affiliated or allied attorneys to broaden their reach into various geographic regions and issue areas of law – and still others relying on a hybrid approach, employing a sizeable staff while also relying on affiliated attorneys. Future chapters will expand on this, but for now it is worth noting that some groups' efforts are directly affected by their structures.

Resources also play a major role in these groups' organizational structures, likely dictating the degree to which they rely on staff or allied attorneys (or both). Some groups are able to take advantage of great financial capabilities, while others are forced to operate under much tighter budgets; such differences among groups manifest themselves in the totality of what CCLOs are able to do as social movement organizations, something that will be seen in later chapters. A CCLO's organizational structure, therefore, clearly affects its ability to interact with other groups in its movement industry, as well affecting the nature of this interaction.

Conclusion

This chapter has accomplished two things. First, it has outlined the various criteria of what makes a movement organization a CCLO, an important task in establishing the boundaries of this study and defining the sample of groups for analysis in the social movement industry. And second, it has discussed which movement organizations belong in the CCLO industry and, just as importantly, which organizations and other bodies do not belong in this industry. It is evident that CCLOs provide a unique space for cause lawyers to operate in the legal advocacy

arena, allowing them to practice law and advocate in accordance with their respective callings and faith commitments. But it is also evident that the CCLO industry is diverse and populated, including multiple organizations dedicated principally to the task of legal mobilization on behalf of the agenda championed by Christian conservatives.

But apart from simply listing the organizations belonging to the CCLO industry and introducing them as key actors in this broad niche of conservative legal advocacy, what does this industry of legal groups for the Christian Right actually look like? That is, how do CCLOs work, operate, and behave in the context of various competing movement organizations, each one committed to most of the same policy and strategic agenda on behalf of the same social (in this case, religious) movement? And, most importantly, what does this mean for these groups' legal advocacy efforts on behalf of Christian conservatives and the Christian Right in American politics? In the following chapter I turn to content analysis of CCLO sources to discover variation in CCLOs' causes and advocacy methods. This variation explains each group's organizational expertise, in addition to its organizational identity.

CHAPTER THREE

ORGANIZATIONAL EXPERTISE: VARIATION IN CCLO CAUSES AND ADVOCACY

“I think unity is beneficial, but it’s not the optimum. If one group walks off the cliff, it helps if other groups don’t follow.”

--- Mat Staver

Founder and Chairman, Liberty Counsel

Christian conservative legal organizations are multi-issue organizations dedicated to pursuing the causes, goals, and interests important to Christian conservatives and the Christian Right, a formidable religious and political movement in American society. As legal advocacy groups, these organizations occupy space in a unique industry of social movement activism, principally relying on legal mobilization in pursuing a relatively similar agenda that includes upholding religious freedom, opposing cultural acceptance of homosexuality, and supporting the sanctity of life through opposition to abortion.

Despite agreement across a broad spectrum of issues, however, past research on law and social movements has found that it is not uncommon for organizations part of the same movement to disagree on the ways in which their shared agenda is pursued (Tushnet 1987, for example). Determining whether or not this expectation also applies to Christian legal groups—and religious legal advocacy groups more generally—is a central goal of this study, and of this particular chapter. Specifically, by paying attention to the organizational identities of the various groups engaged in legal advocacy for the Christian Right, I hope to provide an improved understanding of the role of organizations in law and social movements

In this chapter I explore the causes and issues CCLOs pursue under the umbrella of a broadly shared agenda, and, more importantly, the strategies and tactics by which they pursue

this agenda. I argue that, even though they have much in common in terms of the substance of their policy preferences, CCLOs exhibit substantive variation in pursuit of these preferences, whether through litigation or through other mechanisms of legal mobilization. I also argue that CCLOs are diverse actors in terms of the methods of legal advocacy they exercise in pursuit of their goals. Put simply, CCLOs vary considerably in organizational expertise.

Thus, while CCLOs may at first blush appear to comprise a unified collective of public interest legal organizations (especially to uninitiated observers), in reality they actually form a diverse and non-monolithic community. Through an analysis of primary sources, including CCLO press releases and legal briefs, I explore how the industry of CCLOs is constructed and organized with respect to methods of advocacy. I then explain how varying CCLOs tackle causes important to the broader realm of Christian conservatives in the United States, focusing on their advocacy methods as well as on the issues that occupy these groups' respective attentions. I conclude that the CCLO industry is diverse and varying in terms of its organizations, a finding with consequences for the interactive dynamics among these organizations.

Prior Research

This dissertation draws on several fields of research in political, including literature on interest group and social movement organization activism. For example, I have already established that CCLOs ought to be considered social movement organizations, groups principally dedicated to pursuing the interests and goals of their shared social movement. Despite sharing motivations and being driven by some of the same factors, social movement organizations are not always in agreement with one another. Resource mobilization theory offers one explanation for this divergence of views and actions among otherwise like-minded groups, suggesting that a limited pool of resources motivates competition among these groups (Zald and

Ash 1966; McCarthy and Zald 1977). Even in an environment where resources are crucial, however, ideology matters a great deal: “ideologically compatible SMOs do form alliances and mergers under special sets of circumstances” (Zald and McCarthy 1980, 15). And although mergers among movement organizations are rare, alliances are not uncommon, especially in situations when the goal is close to being met or the payoff is particularly great (Zald and Ash 1966). Indeed, as we will see in the following chapter, CCLOs are willing to work with one another from time to time.

Similarly, Gray and Lowery’s (1996) book on interest group representation is instructive to the theoretical framework of this chapter and this study, at least in terms of the role of niche activities and identities among interest groups and organizations in a shared social movement industry. Citing Wilson (1973), Gray and Lowery discuss the importance of niche for interest groups and organizations seeking to carve out an autonomous place in a populated social movement industry. These groups must identify specific issues and causes that separate from the rest of the industry, giving their work and efforts unique meaning and value. Organizational identity, therefore, is at least in part explained by that group’s attempt to secure a viable niche. In this study I argue that CCLOs tend to attempt to establish niche, unique identities in an otherwise occupied industry of Christian conservative activism, and in this chapter I show how these niche identities can be seen in both issue areas and in legal advocacy methods.

Finally, previous studies on framing (Benford and Snow 2000, for example) are especially useful to consider in the context of studies like this one. Public interest and advocacy groups, often portraying their work using rights-based rhetoric and language, tend to portray their opponents as impediments to these rights; this is true among conservative advocacy groups (legal and otherwise), who embrace a mentality of oppression and subjugation in order to

legitimize their work and appeal to constituents (Dudas 2008). Especially in their press releases and emails to supporters, CCLOs adopt a frame that portrays their efforts in terms easily embraced by those predisposed to support them. Like any other social movement organization, how a group's efforts are portrayed is a critical component of the organization's strategy and outreach.

Previous studies have shown that religious interest groups have adjusted their rhetoric and framing in strategic fashions, to broaden the appeal of their arguments; this includes substituting rights-based language for religious- or morals-based language (Oldmixon and Heaney 2007). Likewise, Hertzke (1988) notes that some Christian Right groups purposefully frame their arguments without using religious language, all to better appeal to a broader constituency. Moreover, some research has argued that Christian conservatives and related organizations are actually more successful (in terms of policy influence) in environments where they are (or are at least perceived to be) in the minority, as this leads to more successful framing (Deckman 2004). Thus, CCLOs strategically frame their causes and issues in ways best suited to advance their goals and interests. Read together, these several (yet related) literatures and previous studies provide the broader framework by which this chapter ought to be read.

Methodology

I now turn to the principle methodology to be used in this chapter: content analysis of CCLOs' press releases and legal activity. Analyzing these primary sources constructs a unique window into the realm of Christian conservative legal advocacy, focusing on the causes CCLOs emphasize and how these groups differ in their attention to common issues and issue areas. This analysis will establish the diverse nature of this industry of the Christian Right in American politics, which is the main goal of this chapter.

Though possible to define in multiple ways, content analysis is broadly seen as the analysis of written, spoken, or visual communication sources, with the purpose of understanding what the source says about its topic or author (Krippendorff 1980; Cole 1988). One conceptualization of content analysis describes it as a quantitative method, reliant upon statistical software and regression analysis in order to draw meaningful inferences from data (see Neuendorf 2002, for example). Content analysis can also be described in qualitative terms, which involves looking at cause and effect, stories, and the framing and organization of the source (see Ginger 2006, for example). In this chapter I utilize both methodological conceptions of content analysis, through counting, coding, and categorizing CCLO sources and through digging deeply into various sources for more detailed analysis. Content analysis is therefore a flexible yet challenging research method, since “There are no simple guidelines for data analysis: each inquiry is distinctive, and the results depend on the skills, insights, analytic abilities and style of the investigator” (Elo and Kyngäs 2007).

Content analysis as a qualitative research method, however, involves more than simply reading documents and drawing conclusions. Instead, it demands that the investigator explore each source with a number of questions in mind, including the presence and absence of information in the document and the ways in which “the framing of the issue...highlight or deemphasize particular normative, political positions” (Ginger 2006, 347). This suggests that each source must be interrogated with a larger, holistic context in mind. Additionally, such a method requires me to pay close attention to my own subjectivities and biases so as not to “misinterpret the evidence” (Theis 2002, 360). In order to do this, I must be up front about (since it is impossible to eradicate completely) my preconceived notions about the organizations I am studying, so that my own judgments do not cloud the empirical research project I am carrying

out. By using content analysis to study CCLOs I hope to construct an accurate narrative about their causes, strategies, and tactics as actors within their broader legal and political community (the Christian Right religious movement), and further hope to present an honest appraisal of the distinctions and divisions among these groups as a foundation for future research in this area. These are the primary purposes of this chapter.

CCLO press releases are windows into how they present their actions and efforts to their constituencies, making them valuable materials for investigation. These documents are authored and framed by the groups themselves (as opposed to newspaper articles or second-hand coverage of these groups' activities), which allows the researcher to study these groups in light of how the groups talk about their own actions and efforts. Analyzing their press releases also sheds light into the causes they are most focused on; this can be done using a coding-and-counting approach, as well as in-depth analyses of releases. Given the questions this study asks, these primary sources are preferable to secondary ones.

Legal briefs and filings, on the other hand, present a different perspective on CCLOs' goals and strategies. Instead of arguments and rhetoric directed toward their constituencies, the content of legal briefs speaks to the arguments that CCLOs make in a specialized, professional realm. Furthermore, exploring CCLOs' filing strategies would shed light on the kinds of cases they file in, which is further indicative of their causes and issues. In the same way as analyzing press releases, analyzing the legal activity of CCLOs provides yet another window into their important causes and their broader, strategic efforts on behalf of their constituencies in the Christian Right.

DATA COLLECTION

Collecting the data for the analysis in this chapter proved to be a tall yet manageable order. I primarily relied on CCLO press releases and legal briefs and statements as the main sources of data in this chapter, while supplementing these materials with sources such as newspaper accounts and online coverage of events or issues where a CCLO was involved. These latter sources were gathered over time in an unsystematic fashion and are not meant to be exhaustive; rather, they are meant to provide alternative views of CCLO activity and to supplement the more stringently collected primary sources analyzed in this chapter.

But just how did I go about this more stringent data collection process for press releases and legal filings? In terms of press releases I visited the website of each CCLO and recorded every press release listed on this site. Fortunately, most CCLOs had some kind of organized archive listing old press releases, making this data collection a fairly standardized process.¹ I found this to be the most systematic way of collecting this data, most notably because the data is coming from the organization itself. True, it is possible that a group may have removed a press release from its archive over time, but given that my interest lies in understanding how CCLOs talk about certain issues and focus on specific causes, I can comfortably rely upon the sources presented on CCLO websites to address the questions central to this study. Overall, I collected 3,989 press releases² from five CCLO websites up through August 31, 2012 (the full database of these press releases is available upon request).

As I began to collect these releases I coded them, by issue, in-the-moment, without an existing coding scheme to guide my coding decisions. However, as the data collection continued I began to notice themes emerging in my coding decisions (using similar terms, similar issue

¹ CLRF was the only organization in my study to lack some kind of archive for press releases and communications to supporters. Thus, press release data from CLRF could not be collected.

² This database of CCLO press releases includes the date each release was issued, the title of each release, the internet URL where it was obtained, notes from each release (including important language used in the release), and the release's issue code.

areas, etc). Thus, I eventually developed a nine-point issue coding scheme that was then retroactively applied to items already coded as well as to future items (one code per release). This scheme accurately described each data point in my press release database. Table 3.1 lists the nine codes applied to CCLO press releases (and other primary sources, for that matter). See the Appendix to this dissertation for the codebook I developed throughout this process, along with descriptions of each kind of issue code.

As for collecting data on legal briefs and filings, I followed the procedures outlined in greater detail in chapter four, sifting through pages of LexisNexis search results to identify the

Table 3.1 – Codes applied to CCLO sources

Category	Code
Religious freedom/establishment	1
Homosexuality/marriage/gender/family	2
Sanctity of life	3
Christmas	4
Other speech	5
Obscenity	6
Other (legal)	7
Other (non-legal)*	8

*Only applies to press releases, given the intrinsically legal nature of amicus curiae briefs and sponsored cases

unique cases (state and federal) which a CCLO had sponsored as well as the Supreme Court cases in which a CCLO had filed an amicus curiae brief. These searches eventually yielded 523 unique cases in which CCLOs had either litigated in state or federal court, and 117 amicus briefs filed before the Court. In coding these items by issue area I followed the same coding schema as when I coded press releases, but with the omission of the code identifying non-legal issues or announcements (given the inherent legal nature of these data, this code simply did not apply to any brief or filing).

An important methodological component of content analysis is intercoder reliability, which applies a check to how a researcher codes and categorizes data in social science research (Neuendorf 2002). In order to confirm that my analysis was done accurately and rigorously, I tested for intercoder reliability through a random sample of sources from the broader database I compiled. Two graduate students (Coder A and Coder B) were trained in the coding process outlined in the Appendix, completed a sample coding exercise, briefed on their work and given feedback, and then asked to code a random sample of 45 releases, legal briefs, and cases. Overall, my coding agreed with Coder A at an 80 percent rate, and my coding agreed with Coder B at a 69 percent rate. Additionally, my coding agreed with either Coder A or B at an 84 percent rate, indicating that my coding differed from both coders in only 16 percent of the sample. Given the complexity of a coding scheme with eight codes for different issues and categories, I am confident that these results support my scheme's reliability.

CCLOs' Advocacy Efforts

With these terms explicitly defined, it is now appropriate to begin exploring the range of causes, strategies, and tactics among these six CCLOs, which ultimately comprises the advocacy efforts of these organizations. In doing so I rely on data from CCLOs' amicus curiae briefs

before the U.S. Supreme Court, their sponsored cases in state and federal court, and their press releases.³ These data sources say different things about a legal group’s advocacy priorities and strategies, as filing amicus curiae briefs, sponsoring cases, and issuing press releases each accomplish specific goals. Table 3.2 lists this data in simple count form, broken down by individual CCLO and source of data.

In order to best present the results from my data analysis (which was primarily descriptive and exploratory in nature), I break down this section into three parts based on the type of data under consideration. In exploring the results emanating from each source I consider

Table 3.2 - CCLO amicus curiae briefs, sponsored cases, and press releases

	<i>Amicus Curiae Briefs</i>	Sponsored Cases	Press Releases
CCLO	117	523	3989
ADF	33	234	2057
ACLJ	70	139	420
CLRF	48	25	N/A*
LC	30	92	1012
NLF	30	16	51
TMLC	13	49	449

*CLRF’s website does not maintain a press release archive

³ These are not the only forms of advocacy available to CCLOs, as many of these groups also send emails to supporters and hold occasional outreach events. But filing amicus briefs, sponsoring cases, and issuing press releases are the most common and logical modes of advocacy adopted by CCLOs.

the broader themes emerging from the data analysis, before focusing on three specific issues in an in-depth fashion. I then proceed to the implications of these results on CCLO advocacy (which will ultimately be explored more in-depth in chapter five), and conclude by turning my attention to this study's ongoing efforts in the development key concepts to organizations' legal mobilization and advocacy efforts.

AMICUS CURIAE BRIEFS

Amicus curiae (literally, "friend of the court") briefs allow individuals and organizations not directly involved in a court case to support one of the parties to that case (or, in rare occasions, neither party) by urging the court to rule in a particular way. Not surprisingly, many organizations (legal and non-legal groups alike) use amicus curiae briefs in an attempt to pursue their preferred policy goals and interests. However, amicus briefs are necessarily reactive methods of legal advocacy, in that they are responsive to an already-initiated case. Public interest legal groups are therefore more constrained in submitting amicus briefs than they are in other modes of advocacy, in that their options are essentially limited to existing legal cases.

In filing an amicus curiae brief in a given case, a CCLO is "weighing in" on the case or issue at hand, providing the court with perspectives that reinforce or challenge the key arguments made by the parties in the case. Thus, it is no surprise that CCLOs have consistently filed amicus briefs to support the issues they care about. As Figure 3.1 shows, every CCLO has filed amicus briefs at the U.S. Supreme Court, with a total of 117 cases in which at least one CCLO has filed. However, some CCLOs have been more active in filing amicus briefs than others. The ACLJ, for example, has filed amicus briefs in 70 cases over the course of its existence, while the TMLC has filed such briefs in only 13 cases. Filing amicus briefs before the Court is clearly a mainstay of

the ACLJ’s mobilization efforts, while the TMLC does not appear to prioritize this method of legal advocacy.

It is helpful to look at the sheer volume of CCLO amicus brief filings over the years, and such an approach can shed light on these groups’ long-term priorities. But what about variations or trends in these groups’ activities over time? What can they tell us about CCLO advocacy priorities, and perhaps more importantly, how these priorities have changed over the years? It is to these questions I now turn.

Broadly, CCLOs have filed more amicus briefs in recent years than in earlier years: from 1980 to 2002 there were only three years in which CCLOs filed briefs in *more* than five cases,

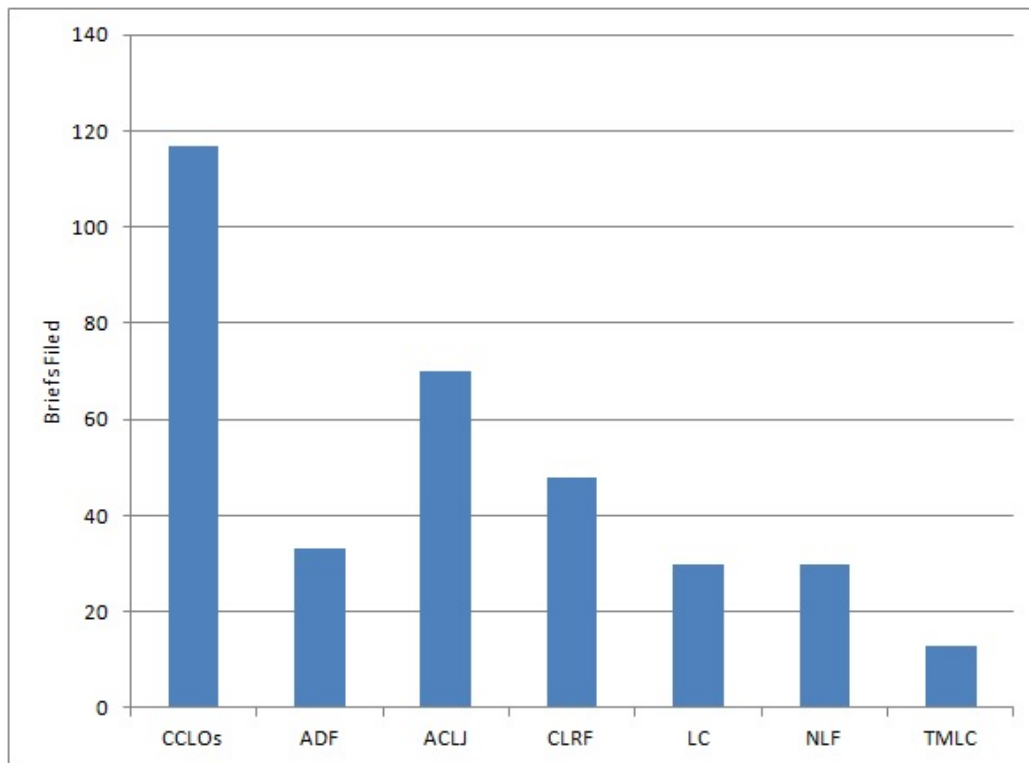


Figure 3.1 - Amicus curiae briefs filed, per CCLO

There were 117 Supreme Court cases in which one or more CCLOs filed an amicus curiae brief (as reflected in the far left column), but in many cases multiple CCLOs filed amicus briefs. Thus, CCLOs filed 224 amicus briefs in these 117 cases.

while after 2003 there was only one year in which CCLOs filed briefs in *less* than five cases. Figure 3.2 highlights four CCLOs and their amicus brief filing rates (as a percentage of their total briefs) over time, and compares these groups' rates to the aggregated rate of CCLO filing. The ACLJ appears to nicely track the aggregate CCLO filing rate, which makes sense given that the ACLJ filed the most amicus curiae briefs of any CCLO. LC follows a similar trajectory to the ACLJ, filing a greater percentage of its briefs in recent years than the whole CCLO industry. In fact, both the ACLJ and LC filed roughly 40 percent of their amicus briefs in the 2008-2012 period, topping the CCLO average of 32 percent. NLF, meanwhile, generally follows the CCLO trend, but exhibited a decline in amicus filing in recent years: slightly more than 35 percent of its briefs came in the 2003-2007 period, while less than 25 percent of them came during the 2008-2012 period.

CLRF, on the other hand, follows the broader organizational trend at times (especially during the 1998-2002 period), but its filing priorities have generally deviated from the rest of the CCLO industry. For example, CLRF filed about eight percent of its amicus briefs from 1980 to 1982, a time period when no other CCLOs were active in this realm of advocacy. And during the 1993-1997 period it filed nearly 25 percent of its amicus briefs, the same period when CCLOs, as a whole, filed about 12 percent of their briefs. But in later years CLRF's amicus activity has waned as the aggregate trend has risen: CCLOs as a whole filed more than 30 percent of their briefs from 2008 to 2012, while CLRF filed less than 10 percent during that period. CLRF's tendency to file amicus briefs has clearly decreased in recent years, while CCLOs more broadly have been more apt to file; this is perhaps due to CLRF's declining resources in recent years (Colby, Interview).

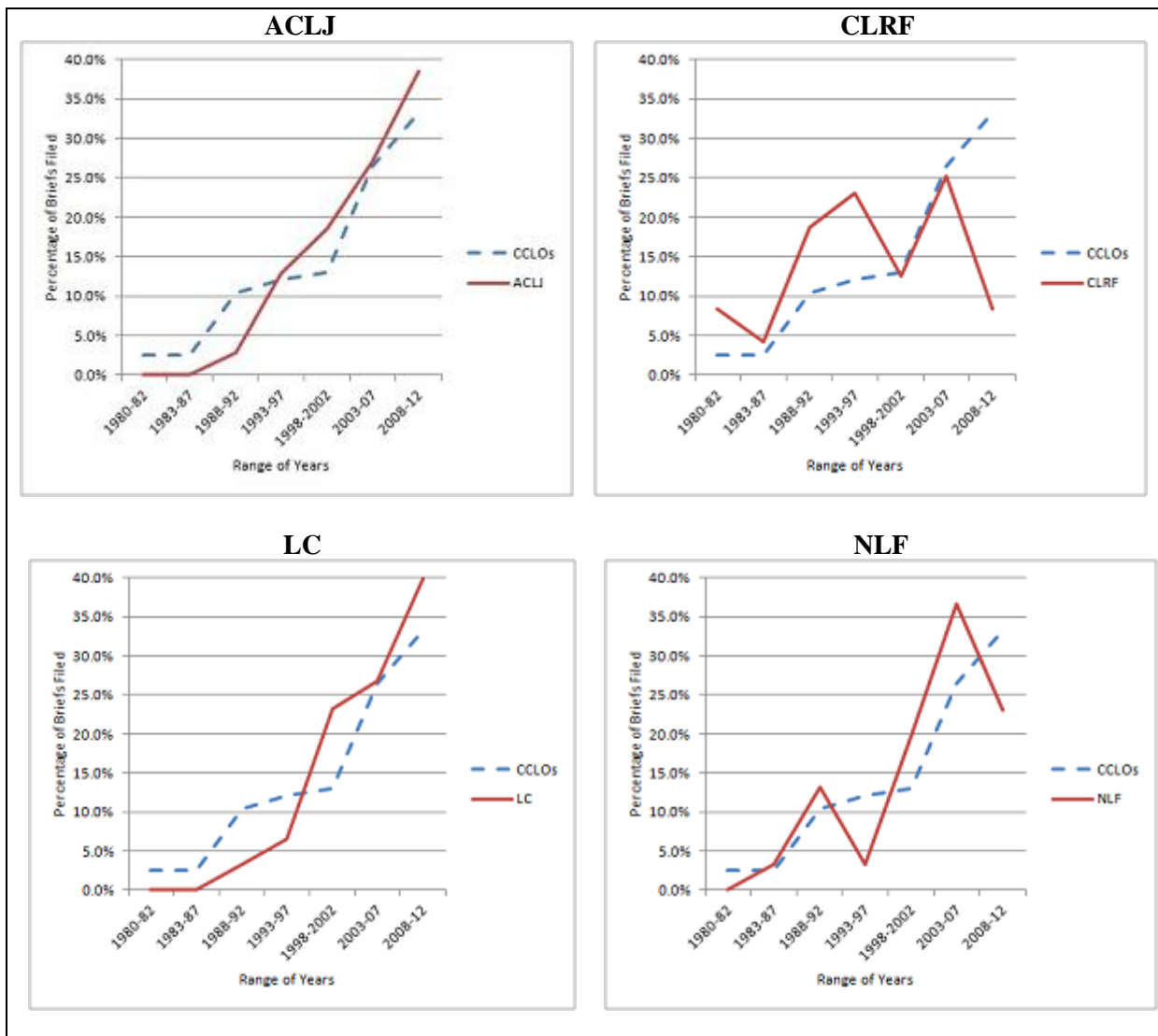


Figure 3.2 - Percentage of amicus curiae briefs filed, over time

It is clear that CCLOs have differed in their tendencies to file amicus curiae briefs over time; not all CCLOs have filed amicus briefs at the same clip over the years. This alone is informative in exploring the varying nature of Christian legal advocacy in the United States, as it speaks to changing priorities and the landscape of resources. But apart from the temporal realm, what of the substantive realm? That is, what about the issue areas in which these groups file their amicus

briefs? Do CCLOs tend to file briefs in the same kinds of cases and areas of policy, or do they differ in this domain as well?

In Figure 3.3 CCLOs’ amicus briefs are broken down by issue area (as a percentage of all briefs filed), comparing four groups to the broader filing trend. Each graph in the figure contrasts the respective CCLO with the trend for that issue. Right away, two things are clear: religious freedom/establishment, homosexuality (including same-sex marriage and unions), and the sanctity of life are the issues dominating CCLOs’ amicus briefs; and there is considerable

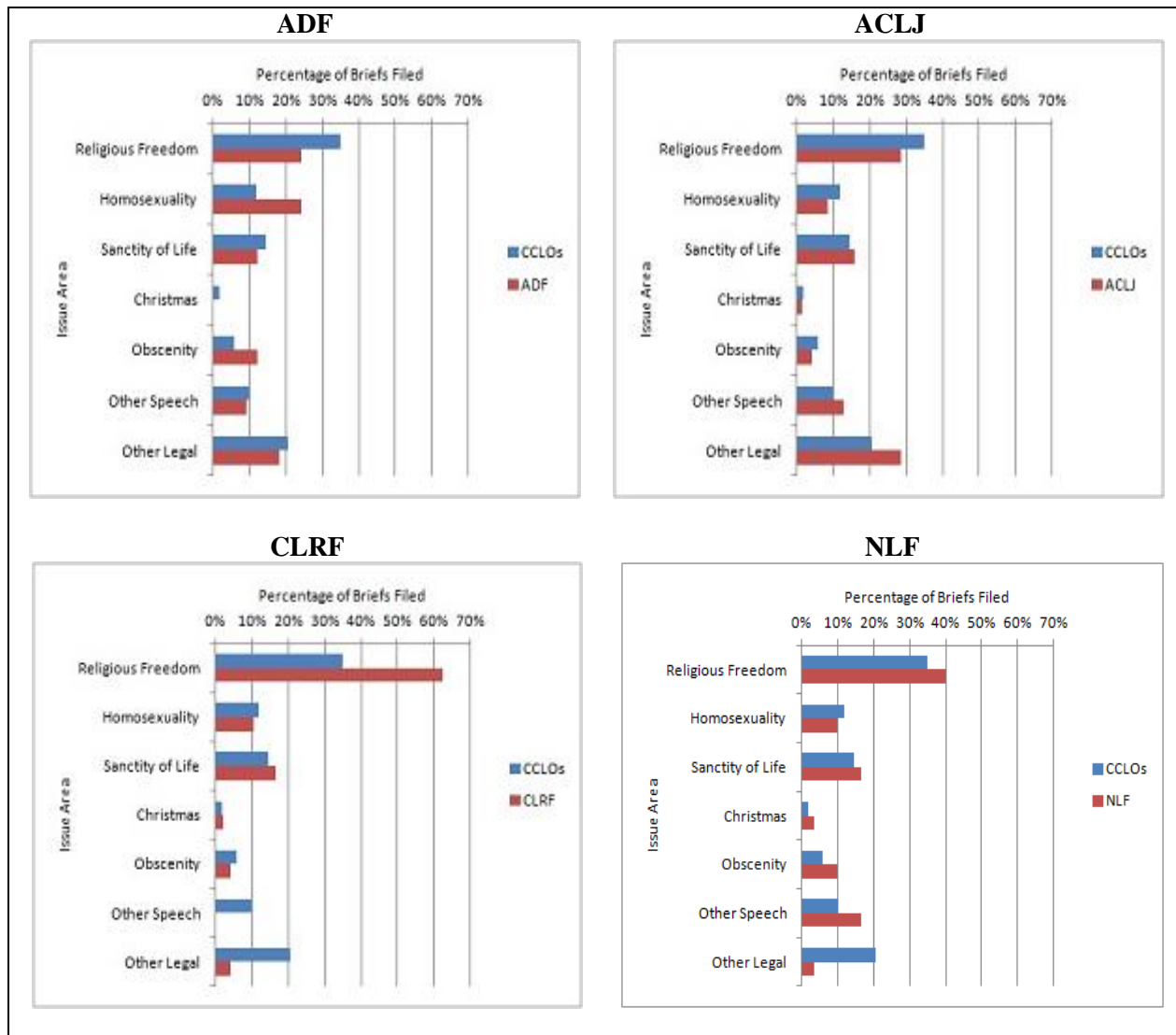


Figure 3.3 - Percentage of amicus curiae briefs filed, by issue

variation among these CCLOs across issue areas. For example, about 24 percent of ADF’s briefs come in cases where homosexuality is an issue, a 10 percent increase over other CCLOs on this issue. On the other hand, ADF files proportionally less amicus briefs in religious freedom cases than the average CCLO (24 percent versus 40 percent), while CLRF and NLF file more in religious freedom cases than in any other kind of case (indeed, over 60 percent of CLRF’s briefs come in religious freedom cases). Additionally, the ACLJ’s filing activity in cases coded as “other legal” exceeds the CCLO average, with almost 30 percent of its briefs coming in these kinds of cases; compared to other CCLOs, the ACLJ is by far the most active “other legal” cases.

Thus, even though most CCLOs file amicus briefs in the same kinds of cases and issue areas, there is visible separation and variation among CCLOs when it comes to both the rates of filing in these issue areas and the periods in which CCLOs filed their briefs. This suggests that CCLOs have varying priorities in terms of the issues they target and when they target them. But there is yet another way to look at CCLOs’ filing tendencies and behaviors: Figure 3.4 tracks the aggregate CCLO percentage of amicus filings by issue area (focusing on the top three issues) from 1980 to 2012. That is, this figure portrays the percentage of an issue area in a set period, showing CCLOs’ varying issue priorities in amicus curiae advocacy over time.

This figure shows how CCLOs have embraced different issues in their amicus brief filing behavior over the years. Not surprisingly, CCLOs’ tendencies to file briefs in each of these areas has not been static over time. Cases involving the sanctity of life—notably, abortion and pro-life protests—dominated CCLOs’ amicus briefs from 1988 to 2002, peaking in the 1993-1997 period (over 35 percent of these briefs were filed here). Since then, however, amicus briefs in sanctity of life cases have steadily declined, with less than five percent of the briefs filed between 2008 and 2012 considered sanctity of life-related. Dedication to religious freedom/establishment cases,

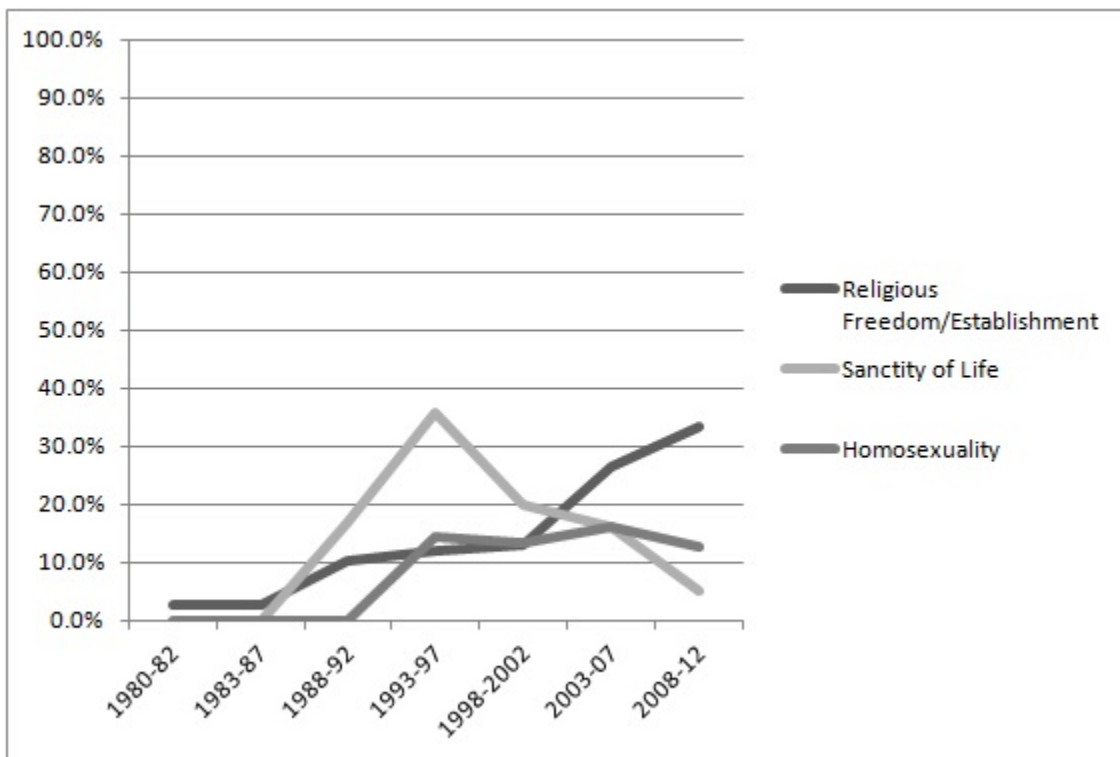


Figure 3.4 - Percentage of issues in amicus curiae briefs, over time

on the other hand, has gradually increased over time: only 10 percent of briefs filed in 1988-1992 were coded as such, compared to over 30 percent of briefs in 2008-2012. Briefs in cases where homosexuality was a central issue emerged later than the other issues, but the percentage of briefs dedicated to this issue per period has consistently hovered around 15 percent.

The data in this section presents a straightforward finding: there is ample variation in Christian legal groups’ amicus filings, measured over time and by issue area. While it is evident that all CCLOs see the value in filing amicus curiae briefs to at least some extent, it is equally evident that: a) some CCLOs value this mode of legal advocacy more than others; and b) there is considerable variation among CCLOs in terms of the cases and issue areas in which these briefs are filed. Moreover, there is variation in *when* CCLOs have filed amicus briefs in different issue areas, likely due to changes in issue salience over time (since amicus briefs, as a method of legal

advocacy, are necessarily reactive in nature). Despite amicus curiae briefs being staples of legal mobilization efforts, there is hardly a uniform usage policy for amicus briefs among Christian legal advocacy groups; their use is largely dependent on organizational priorities and resources.

SPONSORED CASES

Perhaps the most visible way—at least among the general public—in which legal advocacy groups attempt to secure their interests through the legal realm is through sponsoring and litigating cases. When sponsoring a case, a legal advocacy group is signaling to the parties in the case (and to the broader legal community) that it values the details of the case and the issue at stake enough to apply some of its finite time resources to that case. Additionally, legal advocacy groups have flexibility in deciding cases to take, as well as in how the case’s arguments are structured; case sponsorship is therefore a proactive endeavor, contrasted to the reactive practice of filing amicus curiae briefs in ongoing cases. But most importantly, litigating a case allows legal organizations to take credit for a successful case outcome, leading to increased visibility and legitimacy from their prospective support pool. An unsuccessful litigation campaign could damage the integrity and legitimacy of the organization, or, depending on how the loss is framed by the organization, mobilize greater support for the case and the broader cause (Albiston 2011). Whatever the outcome, sponsoring cases allows legal advocacy groups to claim credit for their work in ways unavailable to them when filing supportive briefs.

Because of this, it is no surprise that CCLOs have made case sponsorship central to their advocacy efforts. Indeed, every CCLO in this study has sponsored cases to some degree. Unsurprisingly, though, CCLOs vary in the extent to which they sponsor cases and engage in actual litigation efforts. Figure 3.5 displays this variation in case sponsorship, with ADF

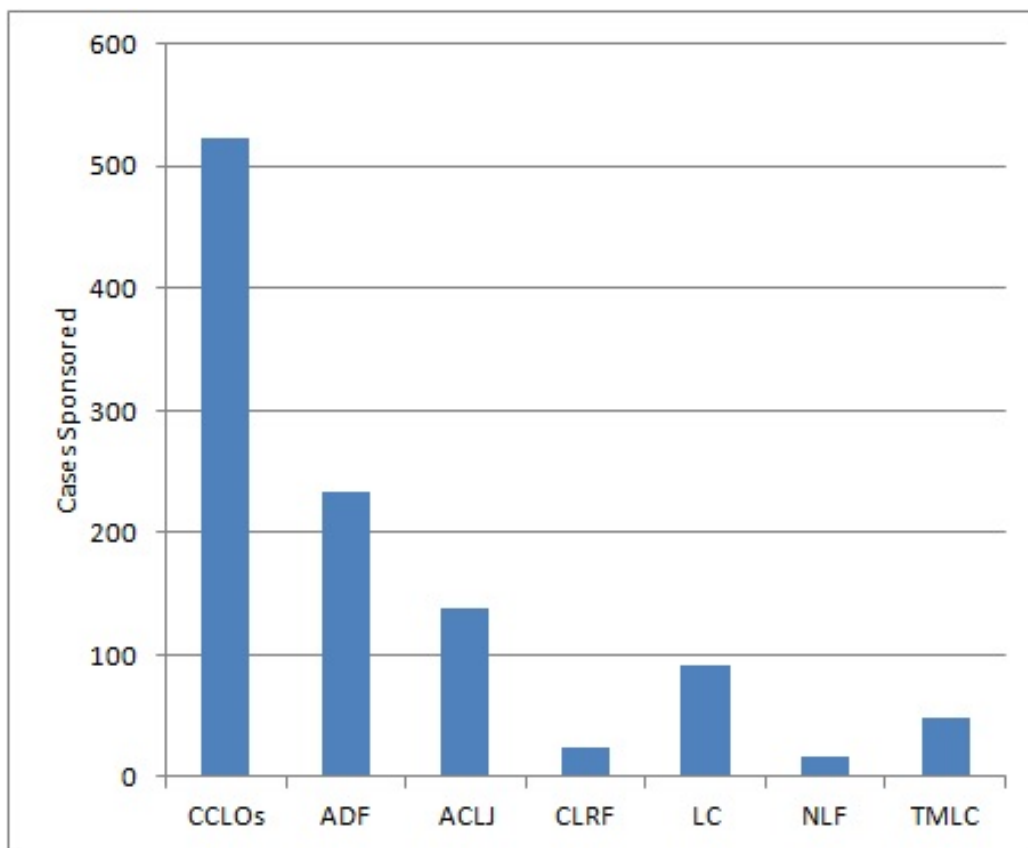


Figure 3.5 - Total cases sponsored, per CCLO

There were 523 unique cases in which at least one CCLO was involved in litigation (as reflected in the far left column), but in some cases CCLOs acted as cosponsors. Thus, CCLOs cumulatively sponsored 555 cases in these 523 unique cases.

sponsoring the most cases of any CCLO and NLF sponsoring the fewest.⁴ This is an interesting finding, given that ADF did not engage in direct litigation until 2001, while NLF has been around and involved in legal mobilization efforts since the 1980s; these two groups have seemingly prioritized their resources and advocacy strategies in different ways. The ACLJ was the only other CCLO (in addition to ADF) to have sponsored more than 100 cases over the years, lending support for the claim that sponsoring cases is an expensive, demanding group activity.

⁴ It is worth repeating that LexisNexis only includes appellate state and federal cases, not cases originating in lower courts. Thus, CCLO case sponsorship numbers are limited to what was found in LexisNexis searches. Regardless of this limitation, there is no reason (theoretical or supported in other research) to believe that these results were systematically biased against a particular CCLO.

Aside from raw case sponsorship numbers, how have CCLOs sponsored cases over time? Have CCLOs differed in their propensities to sponsor cases over time? Figure 3.6 highlights four CCLOs and the percentage of their sponsored cases over time (broken up into seven time periods) and compares them to the aggregate CCLO percentage of cases sponsored. Looking at the data presented, it is clear that CCLOs have not sponsored cases at the same rates over time. From a simple glance LC most closely tracks with the aggregate case sponsorship trend, as its

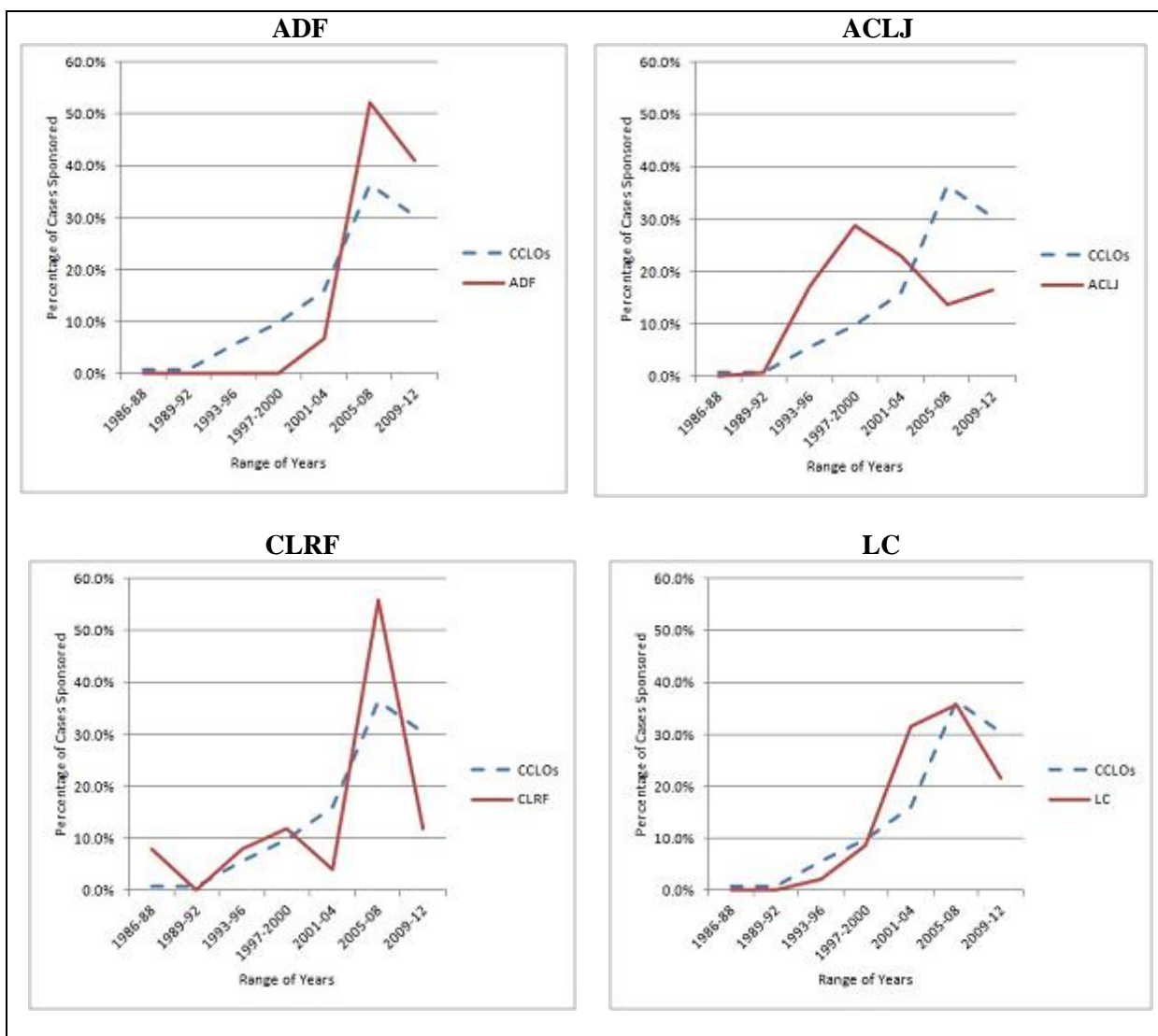


Figure 3.6 - Percentage of cases sponsored, over time

percentage of cases sponsored rise and fall with the broader movement. Likewise, ADF generally follows the trajectory of broader CCLO case sponsorship patterns, although its own percentage of cases sponsored over the years is skewed toward later periods (due to its relatively recent involvement in direct litigation).

CLRF, meanwhile, appears to follow the broader trend at times, but overall its behavior is considerably erratic: nine percent of its cases were sponsored in the 1986-1988 period; zero cases in 1989-1992; nine percent in 1993-1996; 11 percent in 1997-2000; four percent in 2001-2004; an incredible 56 percent in 2005-2008; and 11 percent in 2009-2012. Interestingly, only in the 2001-2004 period does CLRF buck the broader communal trend, as its percentage of cases sponsored decreased while the aggregate CCLO percentage increased. The ACLJ, on the other hand, deviates the most from the aggregate trend: nearly 30 percent of its sponsored cases came in the 1997-2000 period, while CCLOs generally sponsored only 10 percent of their cases during this time. Moreover, while CCLOs' sponsorship rates increased from 2001 to 2008, the ACLJ's percentage decreased over this period, only to tick up again while the aggregate trend began to decline. Clearly, CCLOs have not sponsored cases in a homogenous fashion over the years.

But what about on the issues? Despite evidence of variation in their case sponsorship behavior over time, do CCLOs at least exhibit congruity on the issue areas in which they sponsor cases? Figure 3.7 compares four CCLOs against one another, and against the aggregate rate of case sponsorship in various coded issue areas. The results are similar to the results for amicus curiae filings: while all CCLOs tend to focus their advocacy in case sponsorship on religious freedom issues (every CCLO sponsors a plurality of cases in this issue area), apart from this there exists broad divergence among the groups in the kinds of cases they sponsor.

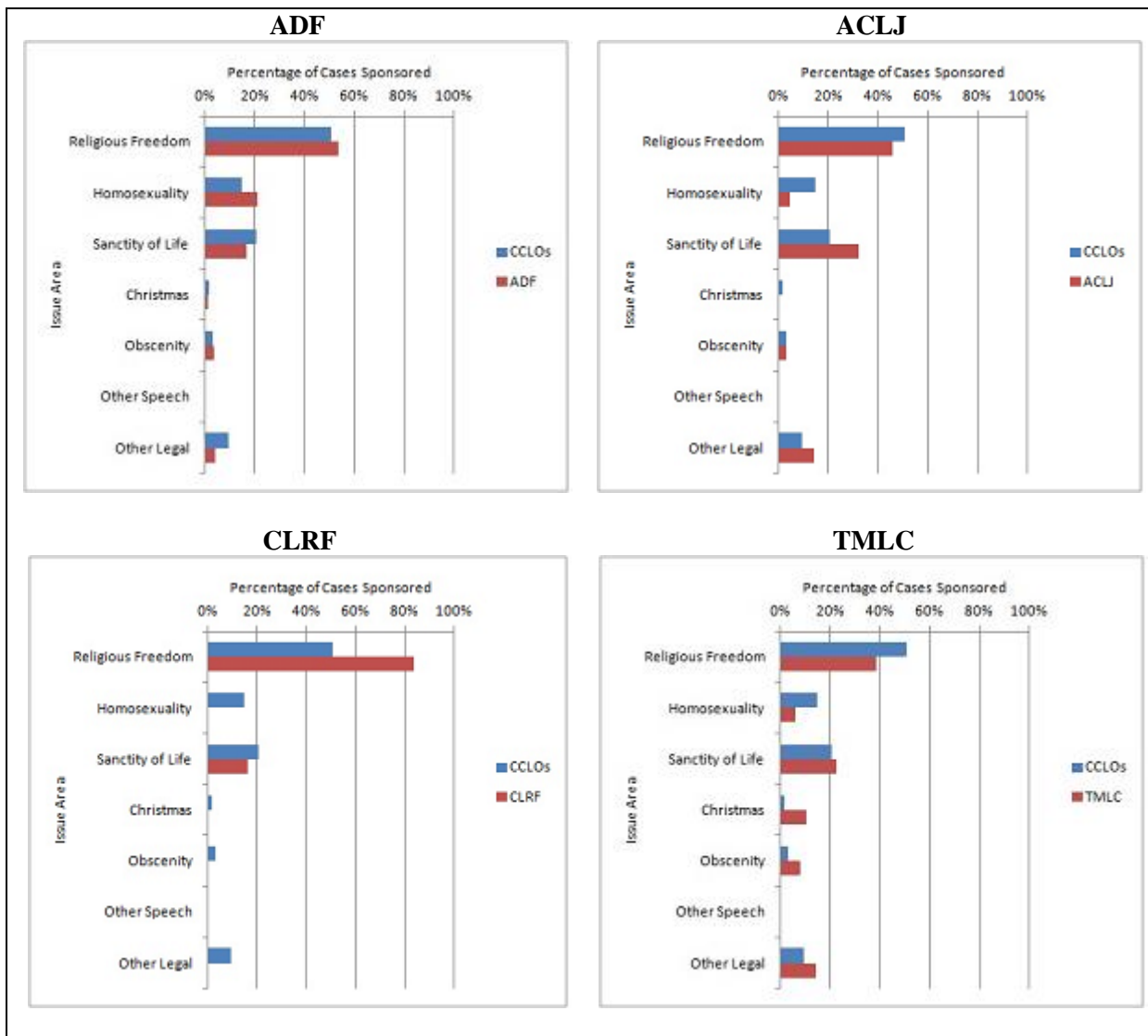


Figure 3.7 - Percentage of cases sponsored, by issue

Take, for example, CLRF. Over 80 percent of its cases deal with religious freedom, far beyond the aggregate rate of 50 percent. However, CLRF sponsored its other cases in only one issue area: the sanctity of life. CLRF did not sponsor cases pertaining to homosexuality, Christmas displays, obscenity, or other legal issues, making its advocacy aims in case sponsorship limited relative to other Christian legal groups. ADF, on the other hand, closely tracks with the broader industry trends in sponsorship by issue area. Only in the other legal issue

category does ADF diverges from the aggregate trend by more than five percent; given that ADF sponsored the most cases among CCLOs, its resemblance to the broader sponsorship rates is not all that surprising.

The ACLJ and the TMLC line up nicely with one another in terms of the issue areas in which they sponsor cases. Consider that around 40 percent of both groups' sponsored cases are in religious freedom (less than the average CCLO), around five percent of their cases are in homosexuality (again, less than the average CCLO), and around 15 percent of their cases are in other legal issues (more than the average CCLO). Additionally, both groups file proportionally more cases in the sanctity of life arena than the average CCLO. Only in cases involving Christmas displays and related issues do the ACLJ and the TMLC differ substantively, with the TMLC sponsoring about 10 percent of its cases in this issue and the ACLJ sponsoring none. Chapters two and three of this dissertation noted similarities between these two groups in their organizational identities and cooperative tendencies, and there appear to be more similarities between them in terms of the cases they sponsor. Overall, however, there is clear variation among CCLOs when it comes to the issues in which they sponsor and litigate cases of their own.

With this in mind, how have CCLOs sponsored cases in the main issue areas of Christian legal advocacy over time? That is, how has the industry of Christian legal advocacy prioritized different kinds of cases over the years? Figure 3.8 gets at this question, showing the percentage of an issue area in a given period and highlighting Christian legal groups' dedication to these issue areas over time.

In most periods religious freedom was the most frequent kind of case sponsored by CCLOs; only in the 1993-1996 period was the issue outpaced. Indeed, from 1986-1992 CCLOs overwhelmingly filed religious freedom/establishment cases, as these cases comprised between

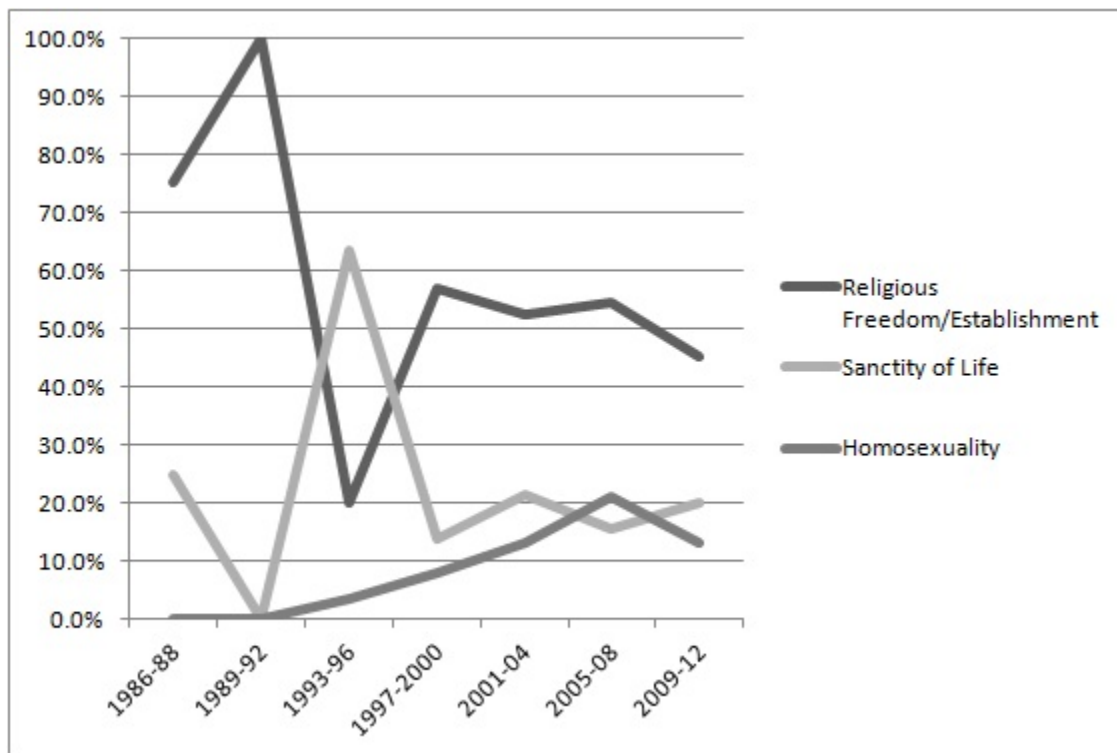


Figure 3.8 - Percentage of issues in sponsored cases, over time

75 and 100 percent of CCLO sponsored cases. Despite a major spike in sponsoring sanctity of life cases from 1993 to 1996, these cases have generally comprised 15 to 20 percent of CCLOs case sponsorship agenda. And cases involving homosexuality in some way, while taking a while to arrive on CCLOs’ agenda relative to other issues, emerged as the third most sponsored kind of cases over these periods (even overtaking sanctity of life cases in the 2005-2008 period). Still, especially in later years, religious freedom cases dominated CCLO case sponsorship advocacy, proving to be the most litigated kind of case among Christian legal groups.

The data on CCLO case sponsorship is striking: while all CCLOs expectedly sponsor and litigate cases to some degree, there is clear variation in the frequency of case sponsorship among CCLOs, both seen in total cases sponsored and seen in case sponsorship over time. Additionally, in cases that are sponsored, CCLOs hardly present a unified front in terms of the issue areas in

which litigation takes place: aside from cases on religious freedom issues, different CCLOs dedicated the bulk of their sponsorship efforts to cases on homosexuality, the sanctity of life, and even “other legal” issues. In terms of litigation frequency and the issues CCLOs defend through case sponsorship, there is not organizational unity among CCLOs. And given the costs of litigation and specific organizational missions and issue emphases, this is perhaps not that surprising.

PRESS RELEASES

Unlike filing amicus curiae briefs or sponsoring cases, issuing press releases gives legal groups the opportunity to speak to a wide (and lay) audience about its causes and policy priorities in a relatively inexpensive fashion. Press releases point to the work the organization is doing and draw attention to the issue at hand, regardless of the form of advocacy. Indeed, something as simple as writing a letter on behalf of an aggrieved party is often enough to warrant a press release; this type of consciousness-raising is common among legal advocacy groups and their cause lawyers (McCann 1994). No matter the topic, press releases provide CCLOs a cheap way to reach a broad audience and promote their legal efforts, attempt to educate their constituencies and persuade the public, and, of course, plead for new or continued support. And press releases are unique among advocacy methods available to legal groups, in that groups rarely issue joint or cooperative press releases: due to the low cost of these releases, organizations can do so independently of one another, an option sometimes unavailable to CCLOs when filing amicus briefs or sponsoring cases.

Just as it was with amicus filings and case sponsorship, CCLOs have differed in their propensity to issue press releases. Five of the six CCLOs in this study include an online archive of past press releases (only CLRf does not do this, preventing systematic data collection),

allowing supporters and others to get an idea of the issues and topics important to CCLOs over the years. Figure 3.9 shows the number of press releases issued by CCLOs, from 2000 to 2012. During this period, CCLOs issue nearly 4,000 unique press releases. Of course, some groups were more active in issuing releases than others: ADF issued more than 2,000 of these releases, with LC issuing the second-most (1,013). NLF, on the other hand, issued the fewest number of releases over this period (51), by far the fewest among groups with press release archives.

Just as there is variation among CCLOs in their frequency of press releases issued, CCLOs have not issued releases at the same clip on a year-by-year basis. Figure 3.10 compares four CCLOs to one another, in addition to the aggregate rate by which all CCLOs issued

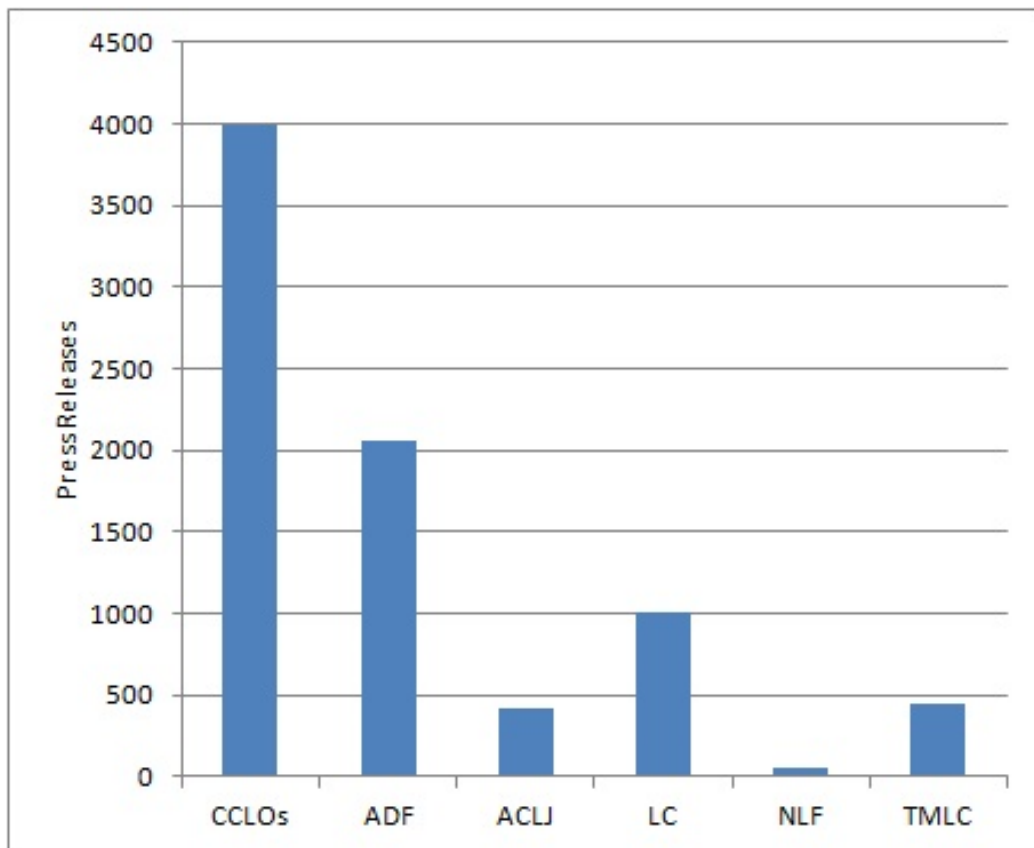


Figure 3.9 - Press releases issued, per CCLO

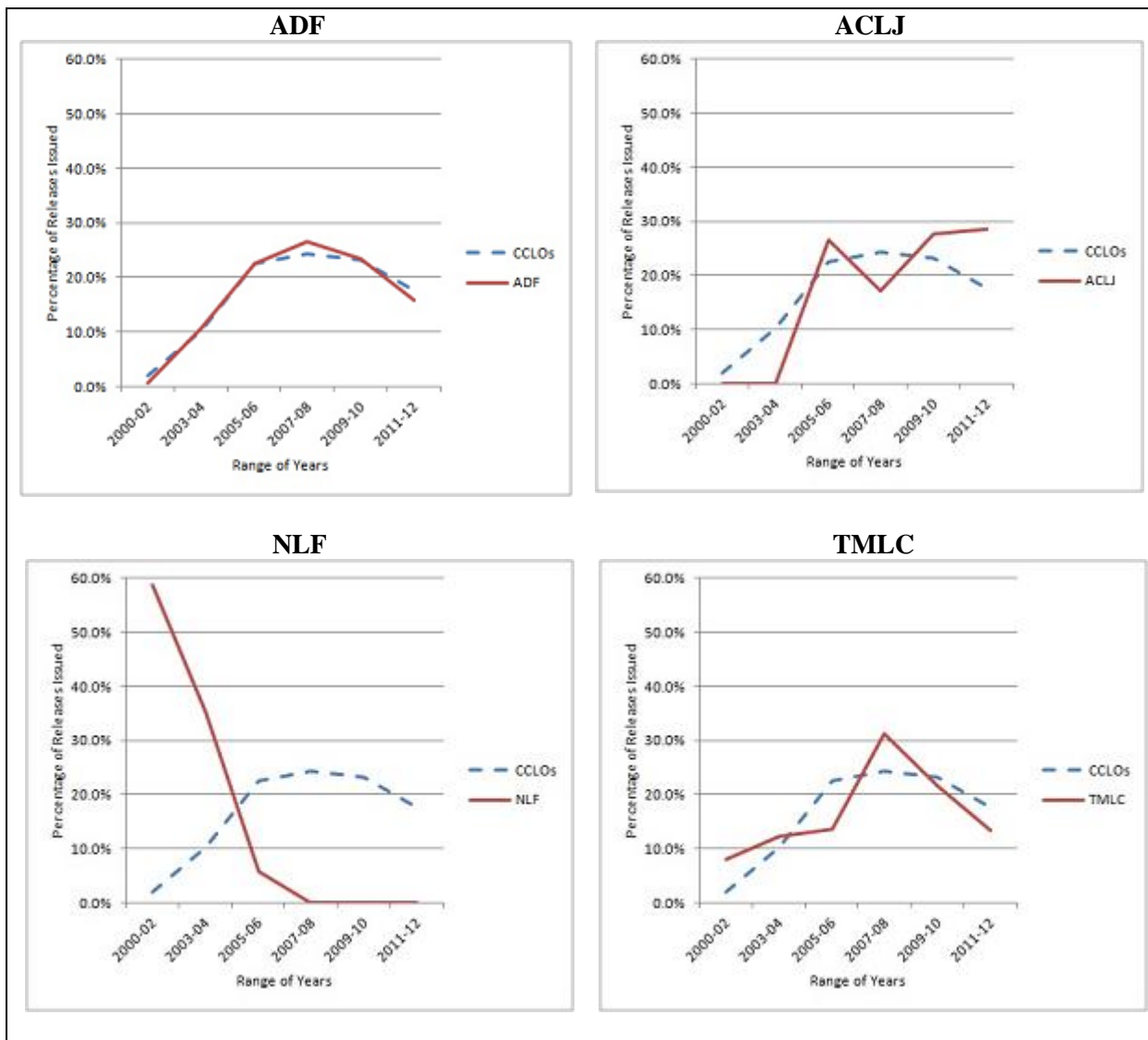


Figure 3.10 - Percentage of press releases issued, over time

releases. Simply put, CCLOs have varied in issuing press releases over the years. Consider ADF, which nicely tracks with the broader group trend (this is not surprising, given that ADF issued a majority of all CCLO press releases). Its rate of issuing press releases gradually increased from 2000 to 2008, with a peak of 27 percent of its releases issued in the 2007-2008 period, and has decreased ever since, with about 16 percent of their press releases issued from 2011 to 2012 (less than the percentage of its releases issued in the 2005-2006 period). On the flip side, NLF issued

nearly 60 percent of its releases in the earliest period (2000-2002), only to drop to issuing about five percent of its releases from 2005 to 2006, and none after that. While at the forefront of issuing press releases to its supporters and keeping the public apprised of its activity, NLF no longer issues press releases as a consistent method of legal advocacy.

The ACLJ and the TMLC, meanwhile, are unique in their own rights when it comes to issuing press releases. The ACLJ has exhibited a somewhat rocky history of issuing these releases, with its first press release coming in 2005 (the latest among CCLOs). After issuing no releases from 2000 to 2004, the ACLJ issued over 25 percent of its releases in the 2005-2006 period; its rate dropped to less than 20 percent of its total from 2007 to 2008, only to rebound back to nearly 30 percent from 2009 to 2012. In fact, the ACLJ's trend in issuing press releases moves opposite to the broader trend for most of the years of this analysis. As for the TMLC, they have been the most consistent CCLO in terms of issuing press releases, issuing slightly less than 10 percent of their releases in the 2000-2002 period and slightly more than 10 percent of their releases in the 2011-2012 period. Apart from a spike in the 2007-2008 period (in which they issued about 30 percent of their press releases), their press release behavior is fairly similar to the aggregate CCLO trend.

As was the case in the previous two modes of legal advocacy, the CCLO industry is not homogenous in either the frequency of press releases its groups issue or in the specific years in which they are issued. Instead, each CCLO is unique in its organizational focus and emphasis on press releases over time. But what about when it comes to the issue areas referenced in these press releases? Is there homogeneity among CCLOs in terms of what CCLOs talk about in their press releases and in what issues or causes they choose to highlight in these releases? Figure 3.11

speaks to this question, contrasting four CCLOs with the aggregate CCLO percentage of releases dedicated to specific issue areas.

The answer is, simply, no: there is no uniform attention to particular issue areas or causes in press releases among Christian legal groups. Both ADF and the ACLJ topped the average CCLO in press releases on religious freedom issues, while LC and the TMLC lagged behind the aggregate average. ADF and LC issued a greater percentage of their press releases on

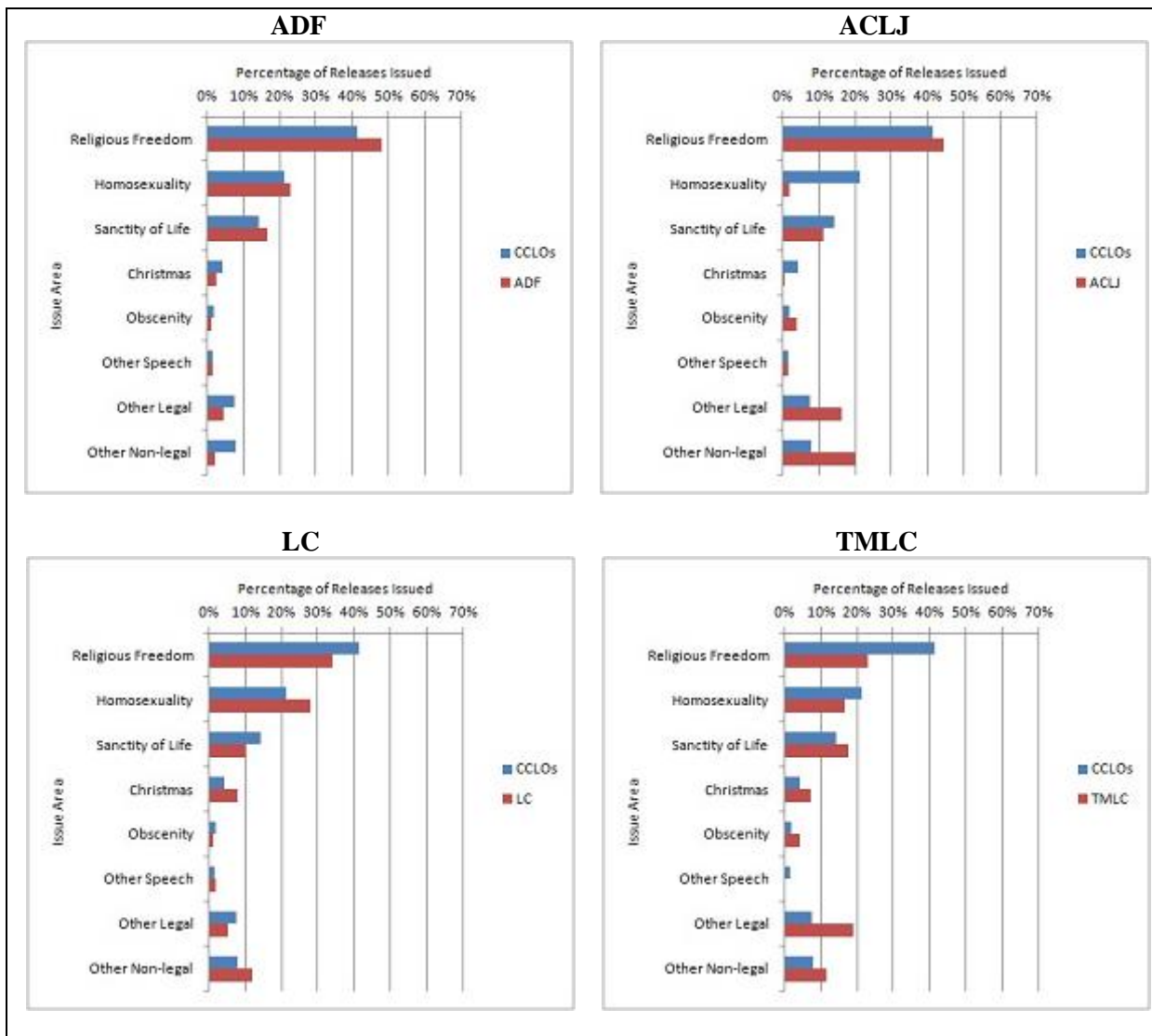


Figure 3.11 - Percentage of press releases issued, by issue

homosexuality and related items, while the ACLJ and the TMLC issued a lower percentage of their releases on homosexuality (only five percent of the ACLJ press releases were dedicated to homosexuality-related issues, far fewer than the aggregate 20 percent). And ADF and the TMLC drafted proportionally more press releases about sanctity of life issues, while the ACLJ and LC issued proportionally fewer releases about this cause.

An interesting finding in this data is the attention CCLOs give to other legal and non-legal issues in their press releases. For example, ADF dedicated less than five percent of its press releases to issues coded as “other legal” and “other non-legal,” least among CCLOs. The ACLJ, on the other hand, issued press releases in these categories more regularly than all but one issue (religious freedom); other legal issues and other non-legal issues made up roughly 15 percent and 20 percent of the ACLJ’s press releases, respectively. Likewise, the TMLC issued almost 20 percent of its releases about other legal issues and over 10 percent of its press releases in other non-legal issues, while LC also issued over 10 percent of its releases in the other non-legal issue category.

Thus, press releases seem to allow CCLOs to speak to topics (legal and non-legal) to which they are otherwise unable to speak in amicus curiae filings and case sponsorship, including more politically-oriented stories and general updates about the organization. This is especially true for press releases coded as referencing a non-legal issue, as, by definition, such a category is contradictory to amicus curiae briefs and case sponsorship. In this sense, press releases act as the most proactive mode of advocacy available to legal advocacy groups.

With this in mind, to what issues and causes have Christian legal groups dedicated press releases over time? Figure 3.12 tracks the percentage of an issue in a specific period and highlights CCLOs’ attention to these issues over time. Not surprisingly, in most periods religious

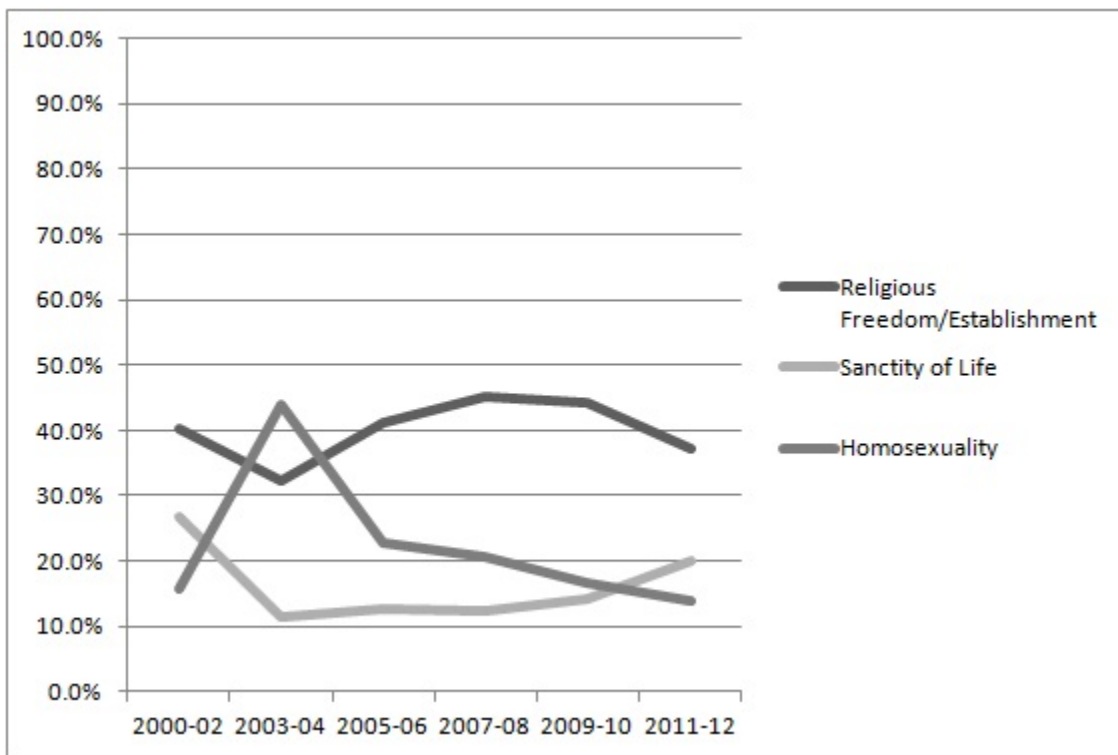


Figure 3.12 - Percentage of issues in press releases, over time

freedom/establishment issues dominate CCLOs’ press release coverage; only in the 2003-2004 period does an issue area (homosexuality) supplant it. Indeed, in all but two periods religious freedom/establishment issues comprise at least 40 percent of CCLOs’ press releases.

But perhaps the most interesting finding in this figure is the steady decline of homosexuality as a topic in CCLOs’ press releases (a decline not found in their amicus curiae or direct litigation advocacy). After comprising more than 40 percent of groups’ press releases in 2003 and 2004 (primarily due to a number of state-level marriage initiatives on the ballot in 2004), the percentage of CCLOs’ releases dedicated to homosexuality declined to slightly more than 20 percent in the 2005-2006 period. This rate eventually dipped to less than 15 percent from 2011 to 2012, where sanctity of life issues topped homosexuality for the first time in over a decade. One possible explanation for this decline in press release coverage is the broader shift in

how Evangelical elites discuss and make arguments about homosexuality (Thomas and Olson 2012). Whatever the reason, there is no mistaking the decline of homosexuality as a topic in CCLOs' press releases.

CCLO ADVOCACY: A CLOSER LOOK

Thus far, this analysis has broken down three unique methods of advocacy available to Christian conservative legal groups: amicus curiae briefs, litigation and case sponsorship, and press releases. The results of this analysis suggest that CCLOs are relatively diverse in terms of these advocacy efforts. But how have CCLOs focused their advocacy efforts in specific issue areas? That is, do CCLOs tend to dedicate one method of advocacy to specific issues or causes more than others? Understanding which mode of advocacy is most preferred when dealing with specific issues can tell us a great deal about how legal groups approach and perceive that issue. It is therefore helpful to investigate how CCLOs vary in their mobilization efforts across issue areas, focusing on their methods of advocacy in a variety of causes.

Figure 3.13 displays various CCLOs' (and the aggregate CCLO industry) percentages of advocacy methods dedicated to religious freedom/establishment issues. As in previous sections, the data suggests there is no unified or homogenous approach among CCLOs to advocating for religious freedom. For example, CCLOs as a whole dedicated about 35 percent of their amicus curiae briefs to religious freedom issues, but individual CCLOs vary quite a bit in this realm: ADF filed about 25 percent of its briefs in religious freedom cases, with the TMLC filing close to 50 percent and CLRf filing over 60 percent of their respective briefs in religious freedom cases. Similarly, 50 percent of CCLO cases dealt with religious freedom or establishment issues, but CLRf dedicated over 80 percent of its sponsored cases to religion-based issues while the TMLC devoted less than 40 percent of its cases to these issues. Thus, Christian legal groups rely

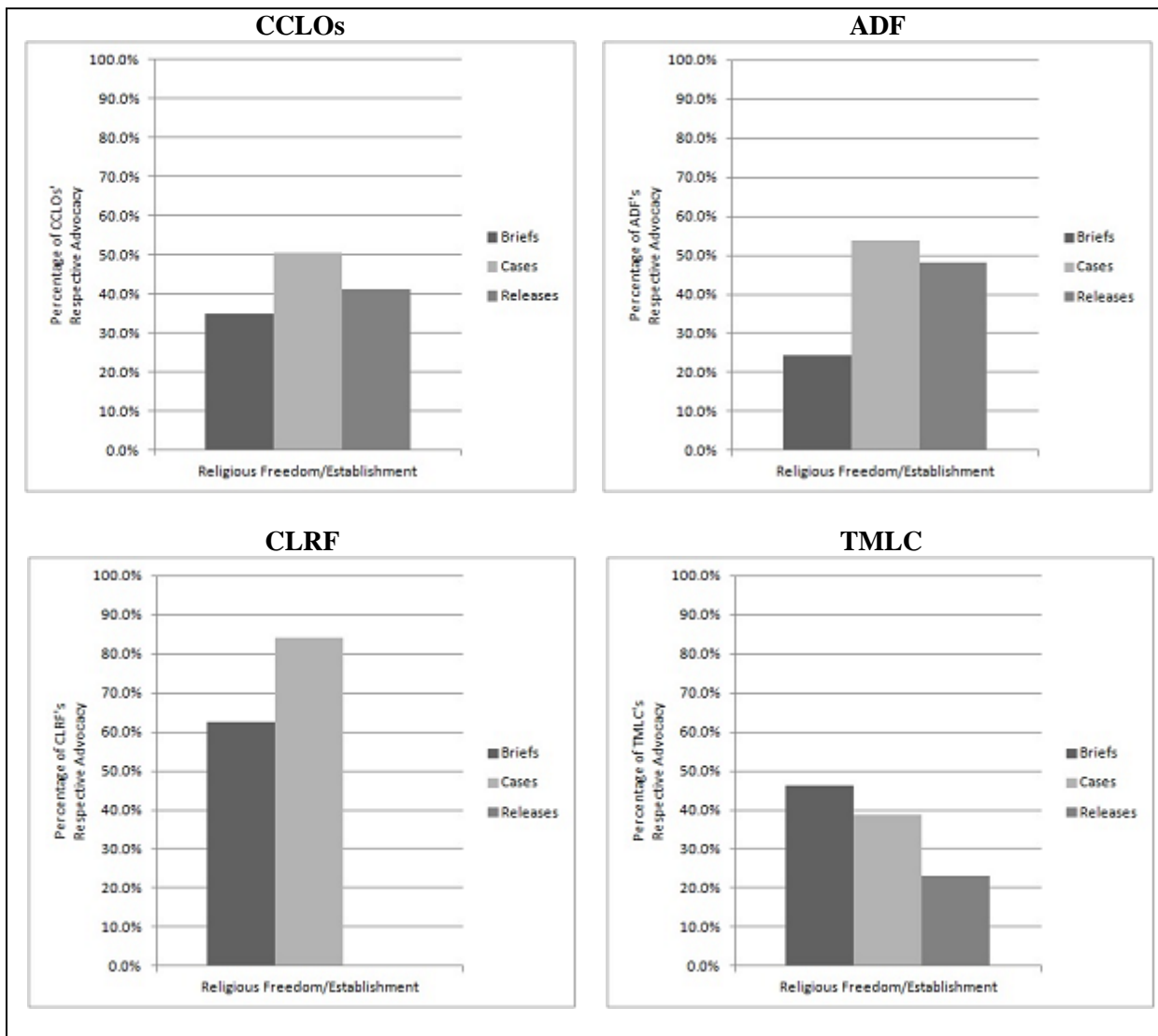


Figure 3.13 - Percentage of CCLO advocacy in *Religious Freedom/Establishment*

on varying degrees of shared advocacy methods when attempting to advance their goals and interests in the religious freedom/establishment arena.

This variation in advocacy efforts is seemingly even more pronounced when looking at data on homosexuality, presented in Figure 3.14. About 12 percent of CCLOs' amicus curiae briefs are filed in cases where homosexuality is a factor, but the ACLJ only filed nine percent of its briefs on this issue while the TMLC filed more than 20 percent in homosexuality-related cases. Likewise, about 15 percent of CCLOs' sponsored cases involved homosexuality as an

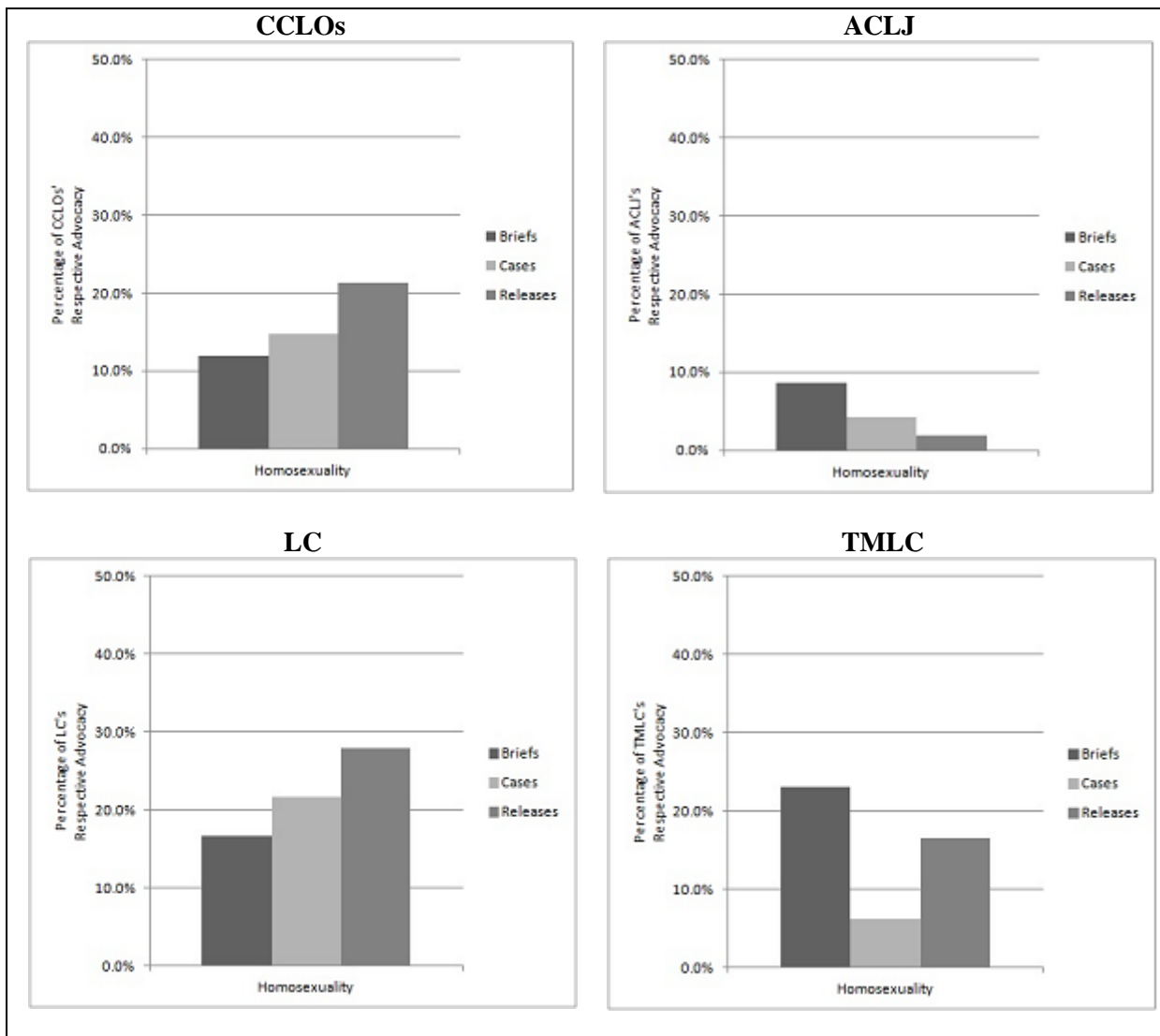


Figure 3.14 - Percentage of CLO advocacy in *Homosexuality*

issue, with individual CCLOs varying greatly in terms of their respective attention to homosexuality in their sponsored cases: more than 20 percent of LC’s cases dealt with homosexuality in one way or another, while the ACLJ dedicated less than five percent of its cases to the issue.

Christian legal groups also differed in their tendencies to raise the issue of homosexuality in their press releases. More than 20 percent of CCLOs’ press releases referenced homosexuality, but individual CCLOs varied considerably: LC spent almost 30 percent of its releases on the

issue of homosexuality, while the TMLC spent only 17 percent of its releases on the same issue. The ACLJ, on the other hand, hardly ever referenced homosexuality in its press releases, dedicating less than two percent of its releases to this issue. What is more, CCLOs as a whole talked much more about homosexuality in their press releases than their other advocacy efforts reflected. In fact, homosexuality was the only issue area in which press release advocacy topped both amicus curiae filing and case sponsorship, in terms of the proportions of these methods dedicated to specific issues.

In addition to religious freedom/establishment and homosexuality, sanctity of life issues tend to dominate CCLO advocacy attention and efforts. However, CCLOs have varied in their advocacy methods on this issue, although this variation does not appear to be as striking as it was when examining CCLO efforts concerning homosexuality. As seen in Figure 3.15, sanctity of life issues comprised between 15 to 20 percent of all CCLOs' efforts, with sponsored cases topping advocacy methods' attention to the issue; ADF most similarly resembles the average CCLO, with somewhere between 12 and 17 percent of its advocacy concentrated on sanctity of life issues.

The ACLJ and LC, on the other hand, deviated from broader CCLO patterns when it comes to sanctity of life advocacy, but only in certain ways. For example, the ACLJ dedicated between 10 and 20 percent of its amicus curiae and press release efforts on sanctity of life issues (in line with the CCLO average), compared to over 30 percent of its case sponsorship activity. Put another way, over 30 percent of the ACLJ's sponsored cases came in sanctity of life issues, compared to only 10 percent of its press releases. Additionally, roughly 10 percent of LC's case sponsorship and press release efforts dealt with sanctity of life issues, compared to almost 25

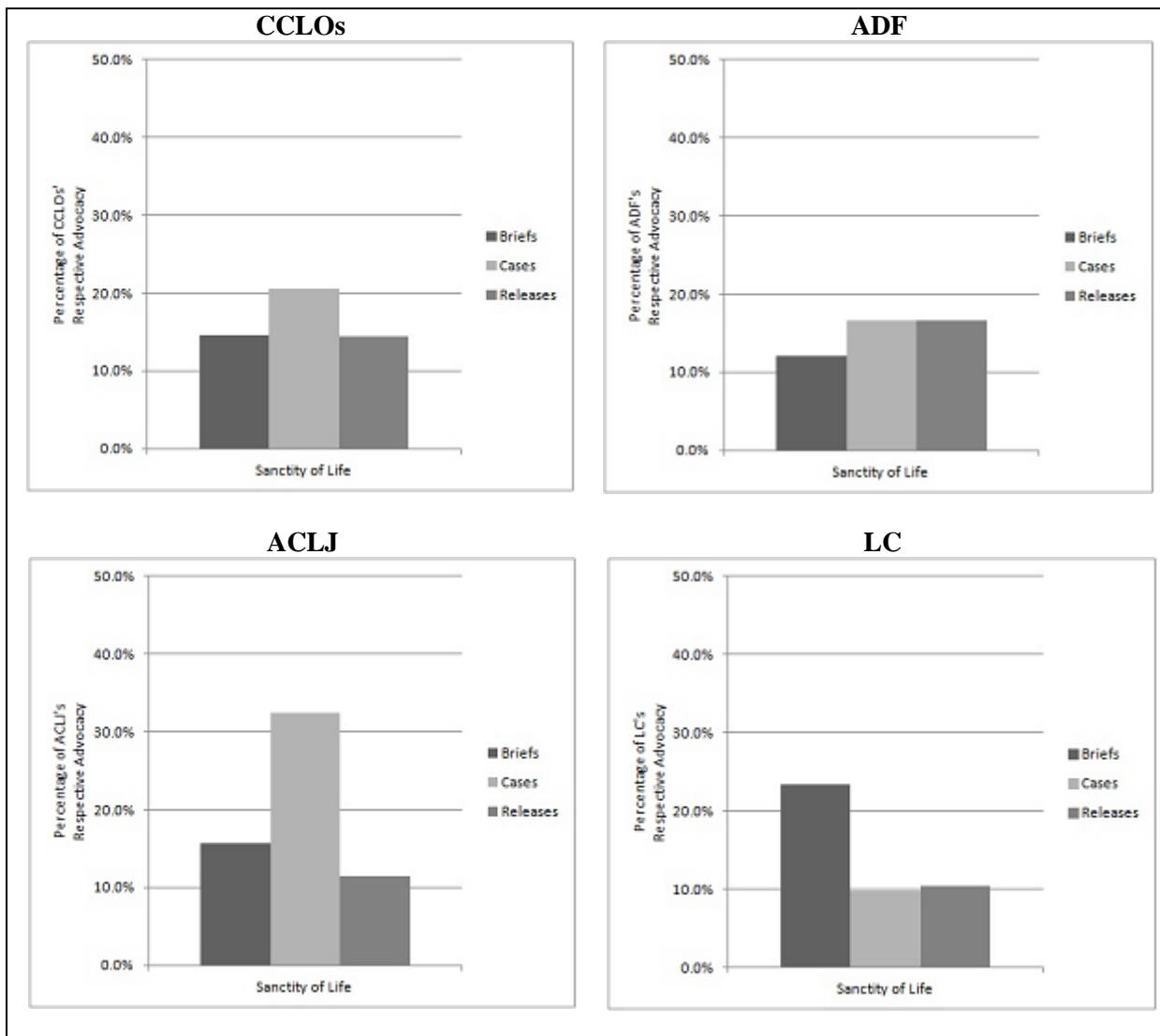


Figure 3.15 - Percentage of CCLO advocacy in *Sanctity of Life*

percent of its amicus curiae briefs. In terms of allocating mobilization activities and resources to sanctity of life issues and causes, CCLOs are far from homogenous in their endeavors.

Finally, when it comes to other legal issues (as a coded category), Christian legal advocacy groups tend to vary in their assorted advocacy efforts. Figure 3.16 displays several CCLOs' advocacy methods on the "other legal issue" category of mobilization activity. About 20 percent of CCLOs' amicus curiae briefs were filed in this category, and, not surprisingly, individual CCLOs differed from that percentage: LC filed just 10 percent of its amicus briefs on

other legal issues, while ADF filed almost 20 percent its briefs here and the ACLJ almost 30 percent, highest among CCLOs. Meanwhile, less than 10 percent of CCLOs' sponsored cases dealt with other legal issues, and ADF's percentage is even smaller (at four percent); the ACLJ and LC, on the other hand, dedicated proportionally more of their sponsored cases to other legal issues.

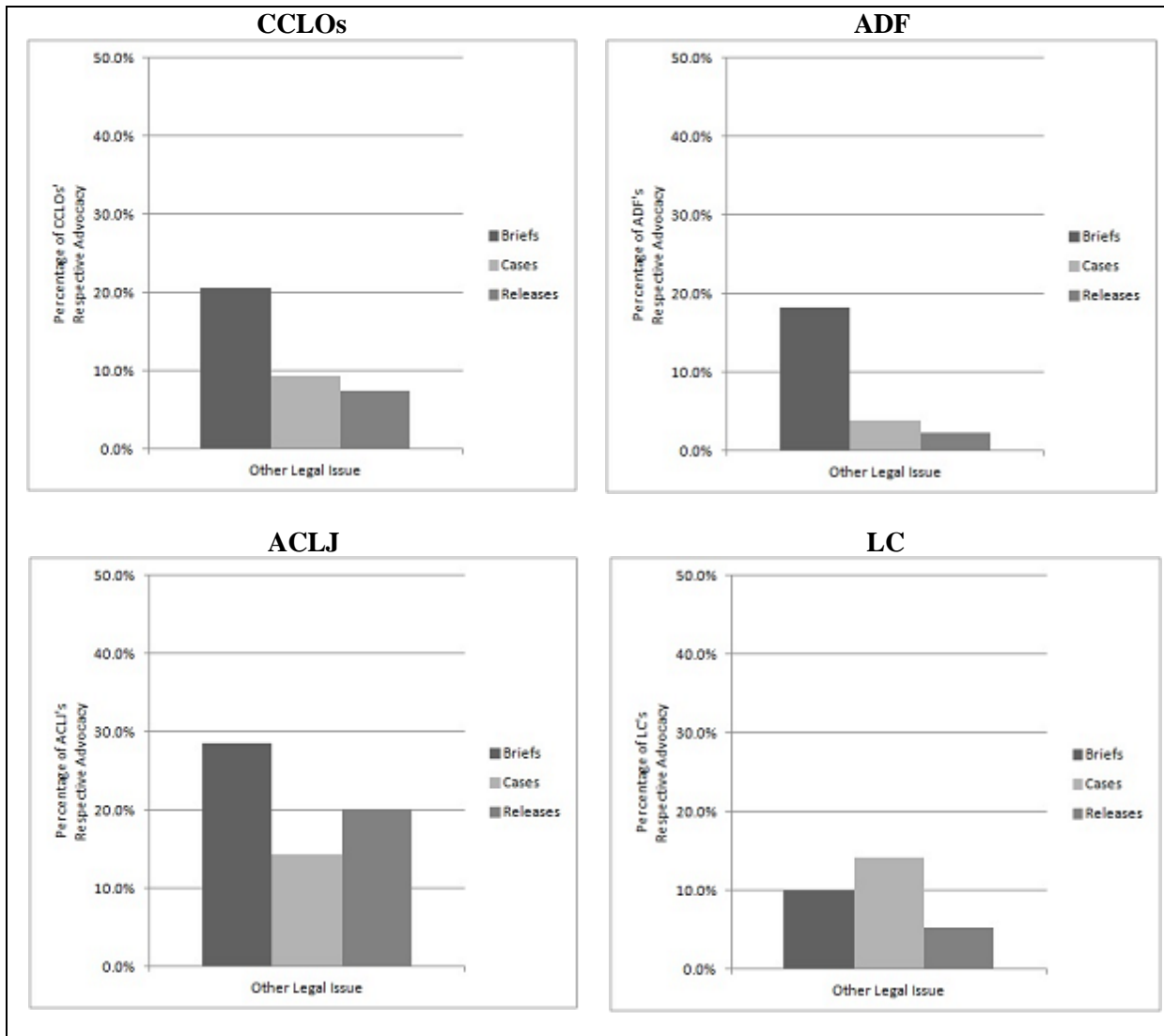


Figure 3.16 - Percentage of CCLO advocacy in *Other Legal Issue*

An even smaller percentage of CCLOs' press releases (eight percent) were dedicated to other legal issues. LC and ADF helped establish this trend, discussing other legal issues (on which they may or may not have been involved in some way) in only five and two percent of their press releases, respectively. The ACLJ, on the other hand, raised other legal issues in 20 percents of its press releases. In fact, the ACLJ dedicated the highest proportion of its advocacy efforts to other legal issues among all CCLOs, becoming the most prone of any group to stray from the three-pronged issue canon of Christian conservative legal advocacy. Overall, only the TMLC rivaled the ACLJ in terms of attention to other legal issues.

If this section has one conclusion, it is that despite sharing a broader issue agenda and engaging in similar methods of legal advocacy and mobilization, CCLOs are far from homogeneous in their advocacy work and efforts on behalf of Christian conservatives in the United States. No matter the issue or cause, or even form of advocacy, Christian legal groups exhibit distinctive identities when it comes to their work in this arena. This allows individual groups to stand out in this crowded industry of social movement activism, signaling to supporters (both real and potential) that their work is both unique and valuable, a desirable image to promote in an atmosphere of competition and finite resources among social movement organizations (Zald and McCarthy 1980).

Discussion

Given the preceding pages, one can confidently conclude that there is not a one-size-fits-all approach to Christian conservative legal advocacy. Analyzing information on CCLO amicus curiae briefs, sponsored cases, and press releases reveals that different organizations have different advocacy priorities and strategies, not to mention different causes and issue emphases. The CCLO industry is clearly not a homogenous social movement industry of the Christian

Right, but one littered with variation in shared attempts to support Christian conservatives and their values in the legal realm. This diversity echoes other movements and camps in American social and political history (Tushnet 1987; Ernst 1995; Toobin 2012; Nagourney 8 December 2012).

But what of the practical, visible effects of this variation on CCLOs' advocacy efforts? Put differently, when can the diversity among Christian legal groups be seen, and in what issues has it arisen? I now introduce three issues on which CCLOs have disagreed over the years. In the fifth chapter of this study I discover how the non-monolithic status of Christian legal advocacy affects interactions and dynamics among CCLOs as like-minded organizations. But for now, I take time to explore specific instances and cases when CCLOs have diverged and disagreed in the scope and aim of their legal advocacy efforts on behalf of Christian conservatives in America. Focusing on specific instances of CCLO tension and disagreement tangibly illustrates the varying nature of Christian conservative legal advocacy.

CASE 1: SAME-SEX MARRIAGE IN CALIFORNIA

Early in this dissertation I referenced a battle between ADF and LC over the proper course of action in the fight over same-sex marriage in California, culminating in the legal fight over Proposition 8, the state's citizen-backed constitutional amendment. It is worth spending more time on this battle now as a way of showing how CCLOs, despite sharing many of the same principles and goals, can arrive at vastly different conclusions as to the proper methods of pursuing these goals.

One of the most salient issues to social conservatives over the last several years has been same-sex marriage. This is particularly true for CCLOs because the legalization of same-sex marriage at the state level has often been the result of state supreme court decisions, not laws or

referendums. Indeed, when put to voters or legislatures, same-sex marriage initiatives have almost always been defeated (although, if recent measures in states like Washington and Maryland are any indication, the tide might be starting to turn). In the courts, however, the record is different, with courts in Hawaii, Alaska, Vermont, Massachusetts, Iowa, California, and Connecticut each issuing rulings that extended marriage (or civil unions) to same-sex couples. Given this track record, it is easy to see why Christian legal groups might feel particularly empowered to act on this issue (though, as this chapter has shown, not all CCLOs feel compelled to do so).

Social conservatives in California have twice been successful in passing statewide propositions on marriage, but both efforts have been struck down by the courts. In 2000, California voters approved Proposition 22, which was spearheaded by the Campaign for California Families and which limited marriage to heterosexual couples. In 2008, after a series of legal challenges involving both ADF and LC, the California Supreme Court that Proposition 22 violated the state constitution. The court's ruling, therefore, could be reversed only by an amendment to the California constitution.

ADF and the Proposition 22 Legal Defense and Education Fund supported efforts to make (relatively) modest changes to the state constitution concerning the issue of marriage. The Fund was renamed ProtectMarriage.com. It and the California Family Council, the state affiliate of Focus on the Family, led the effort to put Proposition 8 on the ballot for 2008. LC and the Campaign for California Families, however, advocated a broader amendment. They supported an effort to amend the constitution in a way that would not only limit the definition of the word "marriage" but would also prohibit civil unions and any other means to give same-sex couples

any right of marriage.⁵ The Campaign discouraged people from signing the Proposition 8 petition, calling it a poorly written amendment that would protect marriage in name only. It was not until after Proposition 8 had survived a legal challenge and was officially on the ballot that the Campaign stopped its opposition and supported the proposition's passage. After months of debate and rhetoric, Proposition 8 was passed by a majority of California voters.

Immediately after the election, there were several efforts to reverse Proposition 8. California Attorney General Jerry Brown opposed Proposition 8, and ProtectMarriage.com wanted to ensure that the initiative received a defense that included its own arguments. The California Supreme Court quickly allowed the organization, represented by attorneys affiliated with ADF, to intervene. The Campaign, again represented by LC, also sought to intervene. ADF, however, argued against such an intervention, noting the lack of support for Proposition 8 by the Campaign and arguing that the Campaign had no particular interests in the case. The court agreed: Unlike in the earlier Proposition 22 fights, ADF attorneys alone would handle the Proposition 8 litigation only.

Andrew Pugno, an ADF-allied attorney and general counsel for the Yes on Proposition 8 effort, saw the Campaign as extreme and not supportive of Proposition 8. "We represent the people who got things done, who got Prop. 8 passed. An important part of defending Prop. 8 is eliminating arguments not helpful to our concerns," said Pugno. "[The Campaign] represents the extreme fringe and is not representative of the coalition that got it passed. They didn't even support Prop. 8 until sometime in the summer." Pugno described Proposition 8 as a pragmatic initiative that California voters would approve; the Campaign's proposed initiative, on the other hand, "was like the nuclear option to obliterate the entire domestic partners law. We were

⁵ ADF considered Prop. 8 to be an approvable initiative in the traditionally liberal state of California. LC, on the other hand, "was wanting to pursue a knee-jerk conservative Christian response that wasn't very nuanced" (Interview, Tracey).

constantly hassled by that organization, who thought we weren't aggressive enough”
(Wildermuth, 24 November 2008).

The California Supreme Court ruled in favor Proposition 8. The only remaining option for opponents of Proposition 8 was to challenge its constitutionality in federal court, which they did later in 2009. ProtectMarriage.com was recognized as the proponent for Proposition 8 in June of that year. Once again, LC and the Campaign sought to intervene, and again ADF opposed the intervention. LC argued in a hearing that the court should allow their intervention because of the Campaign's history on the issue and because it, unlike ADF, wanted to reserve all rights of marriage away from same-sex couples. In addition, LC's Rena Lindevaldsen argued that it would make arguments that ADF would not make. She listed stipulations that ADF had agreed to, stipulations that LC opposed, as evidence that LC ought to be able to make their own arguments in federal court. Lindevaldsen and LC argued that it would lose even if the Plaintiffs lost because ADF's case would concede too much its opponents:

This Court is being asked to be the first court in this -- federal court in this nation to declare sexual orientation to be a suspect classification ... [the defendants] do not stand ready to make all of the available arguments based on the available sociological, psychological, and medical research to defend against a classification of sexual orientation as a suspect classification. The Campaign stands ready to do that, and it must be done, in order to preserve marriage in the state of California (Motion to Intervene, 9 August 2009).

The court, however, denied LC's attempt to intervene, and ADF was able to press on with the litigation as the sole legal defenders of traditional marriage in California.

The outcome of the case, however, dealt a blow to ADF. In August 2010, federal judge Vaughn Walker ruled that Proposition 8 was indeed unconstitutional. Amid lamenting the substance of the ruling, LC issued a statement blaming ADF for doing a poor job defending the

proposition and for keeping LC from helping with the case. In a press release, LC made its view of ADF's efforts on the case public:

Although Liberty Counsel has defended the marriage laws in California since the battle began in 2004, the Alliance Defense Fund, representing the Prop 8 initiative, opposed Liberty Counsel's attempt to intervene on behalf of Campaign for California Families. The California Attorney General did not oppose Liberty Counsel's intervention, but ADF did. Liberty Counsel sought to provide additional defense to Prop 8 because of concern that the case was not being adequately defended. After ADF actively opposed Liberty Counsel, ADF presented only two witnesses at trial, following the 15 witnesses presented by those who challenged the amendment. Even Judge Walker commented that he was concerned by the lack of evidence presented by ADF on behalf of Prop 8 (Liberty Counsel, August 4, 2010).

Put simply, LC and ADF may have the same broader goals concerning same-sex marriage as a matter of social policy in the United States (i.e. effectively banning it), but when specifics are accounted for the two organizations differ greatly.

This issue of same-sex marriage in California and the subsequent legal battles among competing CCLOs is a vivid, contemporary example of the conflict and disagreement among CCLOs with similar interests, policy goals, and foundational beliefs. As Tushnet's (1987) study of early NAACP attorneys made evident, not all cause lawyers and their organizations are bound to agree with the methods by which their interests or goals are pursued.

CASE 2: RELIGIOUS FREEDOM AND SPEECH

A constant theme in CCLOs' various statements of purpose and organizational missions is the value and importance of religious freedom in the United States. Often equating such freedom with speech (Brown 2002), CCLOs have consistently made defending religious freedom a hallmark of their advocacy work. The ACLJ, in its regular email communiqués to subscribers, touts itself as "specifically dedicated to the ideal that religious freedom and freedom of speech are inalienable, God-given rights." And for CLRF, the importance of defending religious

freedom is in its name: “We represent religious liberty, and that really is our focus” (Interview, Colby). However, CCLOs have varied considerably in terms of the scope and range of this protection they have so often sought. Christian legal groups’ responses to two events from recent years make this abundantly clear: the Westboro Baptist Church’s trial over its protests at funerals for military personnel; and an Islamic organization’s plan to build a community center (including a mosque) near the site of the September 11, 2001 terrorist attacks in Manhattan.

The Westboro Baptist Church (WBC), based in Topeka, Kansas, has become one of the most vilified groups in American society today. The church’s practice of picketing at the funerals of military personnel and those affected by national tragedies (including those killed in the mass shootings in Tucson and Newton) has prompted fierce debate over the scope of the First Amendment’s guarantee of the freedom of speech in American society. Free speech advocates argue that curtailing even the most hateful and offensive speech is not a viable option in a free society, while those opposing the WBC’s speech suggest that those mourning the death of a loved one should not be subjected to the painful barbs of picketers. Eventually, a lawsuit against the church initiated by the father of a deceased soldier made its way to the U.S. Supreme Court, which ruled 8-1 in favor of the WBC’s right to picket funerals.⁶

Given that the WBC’s speech is couched and framed in religious terms, it is not unreasonable to expect CCLOs to respond in some fashion to this group’s efforts. And some of them did indeed respond. For example, LC filed an amicus brief supporting the WBC’s position, arguing that the First Amendment “will be left gasping for air” if the Court were to endorse the petitioner’s “captive audience” claim (LC Amicus Brief, *Snyder v. Phelps*). By filing an amicus brief on behalf of WBC, LC suggests that it is willing to support the rights of those with whom it

⁶ Justice Alito provided the lone dissent in the case (*Snyder v. Phelps*).

disagrees in order to aid its broader mission of protecting religious liberty and speech. In a press release acknowledging their amicus brief, LC writes,

Liberty Counsel does not endorse the message contained in the protesters' signs and other communications and even expressly condemns the offensive tactics of Fred Phelps and the Westboro Baptist Church and the content of their rhetoric. However, Liberty Counsel stands with the Founders in supporting the right of protesters and other citizens to present messages of their choosing, even offensive messages, without the chilling effect of tort or other liability or governmental censure (LC 16 July 2010).

In the same release, Mat Staver suggests that defending the rights of protestors is an important endeavor, as should the WBC's picketing activity be curtailed, "then then legitimate protests or speeches on public property could be stopped by those who disagree with the speaker." Given LC's history of defending those protesting outside and picketing abortion clinics, the group's amicus brief in support of the WBC's right to free speech suddenly makes much more sense.⁷

The ACLJ took a different approach in responding to the WBC's behavior. Indeed, it was the first CCLO to publicly take a stance on the WBC's activities, issuing a press release in 2006 that was highly critical of the church's work: "The ACLJ is a staunch defender of the First Amendment, but these protests cross the constitutional line" (ACLJ 28 September 2006). They later grouped the WBC with an organization often demonized in Christian conservative legal circles: "Theres [*sic*] a nationwide movement afoot by a group of protestors backed by the ACLU to disrupt military funerals and berate the families and friends of these fallen heroes during this difficult time" (ACLJ 12 March 2007). These two press releases note that the ACLJ filed an amicus brief opposing the WBC, siding instead with the state law aimed at preventing the church's conduct.

⁷ In a later press release, LC acknowledged the importance of free speech to Christian conservatives, writing, "Today the offensive speech of the Phelps was on trial, but tomorrow it could be religious, pro-life, or pro-family speech" (LC 2 March 2011).

Like LC, the ACLJ also filed an amicus brief in the Supreme Court case, but its brief took the somewhat unusual position of arguing on behalf of neither the petitioner nor the respondent. The ACLJ's brief condemns the WBC's actions, stating, "The Reverend Fred Phelps and his followers present a sorry caricature of Christianity. Their gospel of hate and their deliberately cruel and exploitative tactics merit universal condemnation" (ACLJ Amicus Brief, *Snyder v. Phelps*). However, the ACLJ also critiques the way in which the lower courts arrived at their decisions, taking issue with what they perceive to be procedural problems. They conclude:

It may well be that under a properly limited theory of liability, the Phelps could be held liable for their celebratory picketing of a funeral. The district court, however, gave no such limiting instruction, leaving it instead to the jury to draw its own constitutional lines. The verdict therefore cannot stand in its present form.

In making these arguments, the ACLJ backtracked from its earlier arguments against the constitutionality of the WBC's activities while still refusing to fully affirm the church's right to engage in their pickets. Whereas LC begrudgingly sided with the WBC, the ACLJ remained on the legal fence in this case.

Leading up to *Snyder v. Phelps*, no CCLO defended the WBC's actions or speech as admirable; indeed, there appears to be unanimous agreement among CCLOs concerning the abhorrent and offensive nature of the church's speech. But in terms of the legitimacy and protected status of its activities, one can notice distinct variation in CCLO responses to and statements concerning the WBC's speech: some groups have defended it, some groups have opposed it, and some groups have said nothing. It is clear that CCLOs responded in to this relevant issue in different ways.

The controversy over the proposed Islamic community center in lower Manhattan (commonly called the Park51 project) further illustrates how CCLOs react differently to salient political and legal issues. In 2009 a real estate developer purchased property at 45-51 Park Place

in New York City, and eventually decided to turn the building into an Islamic community center complete with a prayer space. This led to criticism—mostly from conservative media outlets—that the building would be a de facto “Ground Zero Mosque,” given its proximity to the site of the September 11 attacks on the World Trade Center (Fox News 3 August 2010; Salon 16 August 2010).⁸ In the summer of 2010 the issue reached a fever pitch, even drawing President Obama into the controversy (McGrane and Gorman 16 August 2010).

Despite the uproar during the summer months in 2010 over the proposal to build the center, many CCLOs did not address this issue in any email to supporters or in any item posted to their websites; a quick search of several CCLOs’ press releases for “mosque,” “Islamic center,” and “ground zero” yielded no results related to action on this issue. Despite its presence in the media (particularly the conservative media) and its interconnected themes of religious freedom and respect for the victims of 9/11, many CCLOs chose to remain silent on the issue.

A group that did speak up vigorously throughout this debate was the ACLJ. It actively opposed this proposed construction, referring to the project as the “Ground Zero Mosque” and stating that its construction would be insensitive to the memories of those lost in the attacks and alleging terrorist ties to the principal backer of the center. One ACLJ press release stated, “This is sacred ground and for many family and friends of the 9-11 victims building an Islamic mosque on this site would be offensive.... We will continue to pursue all avenues to ensure that this mosque is not built near Ground Zero” (ACLJ 14 July 2010). Furthermore, the ACLJ sent out at least 23 emails to supporters updating them about the group’s efforts to stop the Park51 project, saying, “It’s unthinkable – tax-free bonds to build an Islamic shrine where thousands of Americans were murdered by Islamic terrorists on 9/11” (ACLJ 31 August 2010). Whereas other

⁸ The building, formerly a Burlington Coat Factory, was damaged in the collapse of the World Trade Center towers. Its actual location is two blocks north of “Ground Zero” in lower Manhattan.

CCLOs did not even publicly comment on the issue, the ACLJ made the issue central to their press releases and public outreach in 2010 and into 2011.⁹

One could argue, of course, that the ACLJ is not targeting the religious freedom of Muslims in actively opposing the Park51 project. In fact, in one email to supporters at the height of the furor over the proposed community center, the ACLJ states that its opposition to the proposed center was not a religious freedom issue but was instead an “American issue” (ACLJ 26 August 2010). It thus framed the issue not in terms of religious freedom and liberty (a sympathetic frame, given its constituency), but rather in terms of defending the U.S. from its enemies and showing respect for those killed during the attacks in Manhattan. This approach is consistent with other conservative groups and their framing strategies to justify and magnify their work to supporters and constituents (Dudas 2008). Thus, instead of appearing to contradict its stated support for religious freedom, the ACLJ was able to couch its opposition to the Park51 project in entirely different (indeed, reconcilable and sympathetic) terms.

The examples of the WBC’s controversial activities and the Park51 project suggest that, despite unanimous declared support among CCLOs for religious freedom and liberty as inalienable rights, CCLOs do not take a monolithic position when it comes to defending religious freedom and speech irrespective of content or faith tradition. LC states that they do not limit their work and services to Christians, since “the rights of Christians are affected positively by defending the rights of others” (LC, “About Us”). NLF’s position is similar, according to Steven Fitschen: “Our clients are largely but not exclusively Christian” (Interview, Fitschen). And CLRF also claims to defend Christians and non-Christians in their legal advocacy efforts

⁹ It also filed suit in local court on behalf of Tim Brown, a New York City firefighter who survived the September 11 attacks (ACLJ 31 August 2010).

(Interview, Colby). The TMLC, on the other hand, makes it clear that its work in defending religious freedom has an exclusive audience:

The Christian values upon which this Nation was founded are under attack. The ACLU and like-minded organizations are using sympathetic courts to destroy the religious and moral foundations of our great nation.... The main battleground in this culture war is the courtroom and that is where the Thomas More Law Center is defending the religious freedom of Christians (TMLC, “Defending the Religious Freedom of Christians”).

Thus, although CCLOs universally tout the importance of religious freedom and liberty as central to their missions as legal advocacy groups, the question “Religious freedom for whom?” is important to ask. Such a question sheds light on the varying nature of CCLO advocacy and mobilization, further supporting the finding that CCLO activism is neither a homogenous enterprise nor a unified endeavor.

CASE 3: POLITICALLY CHARGED ISSUES

This dissertation has established that CCLOs regularly engage in legal advocacy on behalf of Christian conservatives, using a variety of methods in a variety of issue contexts. It is therefore no surprise that legal issues (specifically, religious freedom, sanctity of life, and homosexuality issues) dominate most CCLO advocacy agendas. One advocacy method where other issues (including not explicitly legal and politically charged matters) occasionally come into focus, however, is in press releases, as seen in Figure 3.11. Through press releases, legal groups can get out of their comfort zones and venture into other areas of salience, including overtly political issues they otherwise may not be able to address with their predominantly legal work. Indeed, press releases allow CCLOs to reach their constituencies and supporters on a much wider range of issues than possible through case sponsorship or amicus curiae activity. Beyond press releases, as seen in this chapter CCLOs can also tackle legal issues and cases falling outside of their purview, including issues evincing an obvious political bent. These kinds of

issues (and the variation among CCLOs on these issues) comprise this third and final in-depth case exploration.

Not all CCLOs have entered the fray on politically charged issues, at least in terms of focusing on these issues in their advocacy endeavors. CLRF provides an instructive example: as seen in the data broken down in this chapter, CLRF normally limits its advocacy work to the religious freedom and the sanctity of life, and occasionally homosexuality (see Figures 3.3 and 3.4). Indeed, in sponsoring cases CLRF limited its advocacy to only two issue areas (dominated by religious freedom, which comprised over 80 percent of the group's case sponsorship activities). Indeed, Kim Colby, CLRF's senior counsel, told me, "We try to stay away from political issues. We try to avoid divisive issues" (Interview, Colby). It is clear that CLRF simply does not pursue politically salient and other issues beyond its mission statement.

Other CCLOs, however, have focused certain amounts of their time and efforts on politically charged and other issues, including both explicitly legal and extralegal work. Some of this activity does in fact take place through the legal realm, through sponsoring cases and filing amicus curiae briefs (see Figure 3.16). And some groups are more prone to engage these issues than others, with other legal issues comprising nearly 15 percent of the ACLJ's cases and almost 30 percent of its amicus curiae briefs. Similarly, these other issues comprised almost 15 percent of the TMLC's case sponsorship activity and close to 25 percent of its amicus curiae activity. ADF and LC, meanwhile, while dabbling in other issues as part of their legal work, dedicate far less of their case sponsorship and amicus curiae advocacy to these issues.

The ACLJ has positioned itself as one of the most (if not *the* most) politically active groups in the industry of Christian legal advocacy, not pausing to take on issues and causes removed from the triumvirate of religious freedom, sanctity of life, and homosexuality. Indeed,

these issues have tended to be overtly political and partisan in nature, including criticizing President Obama and his administration on a number of fronts where other CCLOs were not involved or vocal. For example, in the weeks prior to the 2012 presidential election the ACLJ filed an amicus curiae brief on behalf of an Ohio law that altered early voting periods, effectively limiting early voting for anyone except military personnel. The Obama campaign filed suit against the law, charging that it violated the Equal Protection Clause and demanding that early voting periods be restored for all Ohioans (Dwyer 17 July 2012).

In a series of releases, however, the ACLJ suggested that the campaign's main goal was actually to restrict the voting rights of military personnel. One press release states, "President Obama, the Commander-in-Chief, has filed a lawsuit to prevent the men and women of our military from having every opportunity to vote this election" (Clark 6 August 2012).

Additionally, Figure 3.17 shows a social media image released by the ACLJ, essentially summarizing their argument: the goal of the Obama campaign was not to return early voting periods to all, but rather to deny early voting to military personnel.¹⁰ The organization later stated:

To hold, as the Obama campaign argues, that our men and women in uniform do not deserve these special considerations, that providing them is "entirely arbitrary," and that there is "no legitimate justification" for recognizing and addressing the unique situation that the brave members of our military face with regarding to protecting their right to vote would have disastrous affects [sic] on the numerous military voting rights laws that have been passed both federally and at the state level (Clark 11 October 2012).

Thus, despite the full nature of the legal challenge to the Ohio law, the ACLJ framed the issue as one not of equal protection or voting accessibility, but rather as one of a president aiming to restrict and hamper military voting in the midst of a close campaign.

¹⁰ Perhaps not surprisingly, these arguments eventually made their way into mainstream conservative news outlets (Fox News 4 August 2012).



Figure 3.17 - ACLU social media image: “Defend Their Voting Rights”

Image shared via Facebook.com/theACLU; accessed 12 August 2012.

The ACLU has also targeted the Obama administration in matters of policy, including the “Fast and Furious” gun-running operation and the attack on the U.S. consulate in Benghazi, Libya. Concerning the Fast and Furious operation, the ACLU sent a series of emails to supporters lambasting the Obama administration, saying, “The American people deserve the truth, and President Obama's Administration is doing everything it can to obstruct the truth from coming out” (ACLU 7 December 2011). It has also been sharply critical of Attorney General Eric Holder, demanding he resign for his role in the program: “Attorney General Holder has ignored the rule of law and prevented the American people from learning the truth in the Fast and Furious scandal” (ACLU 22 June 2012). The ACLU has been equally critical of the Obama

administration on the attack in Benghazi, particularly, its response to the attack as it was developing:

The bottom line is that the president of the United States has the inherent authority to order immediate military assistance, regardless of whether a request comes from the State Department, CIA officials on the ground, or — in the confusion of battle — from no one at all. Why did you fail to give that order, Mr. President? And if you did, why was it not carried out? (French 2 November 2012).

Thus, it is not difficult to see why the ACLJ can be considered active in more overtly political issues than the average CCLO, especially since these (and other) issues fall outside the spectrum of traditional and defined Christian legal advocacy.

One topic that some CCLOs have addressed in their press releases is vacancies on the U.S. Supreme Court. This is not all that surprising, given that the Court is the pinnacle of the American legal system and the last possible destination for institutional legal advocacy. But the topic itself is clearly non-legal and more blatantly political in nature, given the issue category definitions set forth in this chapter (see Appendix for the detailed codebook) and the politicized nature of Supreme Court nominations. Unlike other topics and issues in legal advocacy (on which CCLOs essentially owns the terrain in Christian conservative circles), a CCLO is merely one voice of many during Supreme Court vacancies. And while some have remained silent, other CCLOs have spoken out on these vacancies, offering their perspectives on a president's nominee to the Court.

A nomination that divided CCLOs was President Bush's nomination of Harriet Miers to replace Justice Sandra Day O'Connor. The ACLJ immediately praised the nomination, issuing a press release lauding Bush's choice and saying, "Once again, President Bush showed exceptional judgment in naming Harriet Miers to the Supreme Court" (ACLJ 3 October 2005). LC, on the other hand, was not nearly as pleased with Bush's choice, issuing the following release:

Bush has turned his finest hour into a political debacle that threatens to split his conservative base. The reverberations from his decision to nominate Harriet Miers have political consequences, if not corrected, that will haunt the Republican Party for some time (LC 11 October 2005).

Indeed, the ACLJ found little company in praising the Miers nomination, as liberal and conservative groups alike criticized the nomination for a number of reasons, not the least of which was her perceived lack of qualifications and established conservative credentials (Bennett 2013).

After Miers withdrew from consideration for the vacancy, these two CCLOs responded. The ACLJ issued a release praising Miers' decision, while simultaneously reaffirming support for President Bush: "The American Center for Law and Justice will continue to support the President as he seeks to identify and nominate solid judicial conservatives for the federal courts" (ACLJ 27 October 2005). LC also responded to the withdrawal, calling attention to its original opposition and acknowledging that the group "took some heat" from other conservatives for its initial opposition (LC 27 October 2005). Notably, both the ACLJ and LC were pleased with Bush's eventual nominee, Samuel Alito. And ADF, which did not comment on the Miers nomination, issued a press release expressing optimism that Alito would "apply the Constitution faithfully and according to the intent of the founders" (ADF 31 October 2005). Given the variation among CCLOs established in this chapter, it is not surprising to see such variation manifested in this arena.

While some groups (like CLRf) admittedly stay away from hot-button political issues in their advocacy work, other organizations do not hesitate to offer their perspectives on issues apart from those listed in their mission statements. LC, for example, issued a press release following the 2008 election to acknowledge the "historic" nature of Barack Obama's win, while also suggesting that the American people "looked beyond the content of his character and his

left-wing agenda, because they were fed up with the current leadership and preferred change over substance” (LC 5 November 2008). And the TMLC’s activity has occasionally forayed into more traditional political realms, such as when they taunted the Obama administration after a partial defeat on immigration policy at the Supreme Court (TMLC 25 June 2012). But it is the ACLJ that best demonstrates this kind of advocacy fusion, combining legal advocacy with more “traditional” political advocacy.¹¹ Jay Sekulow, its chief counsel, has recently become a mainstay on Fox News as a legal commentator, and he and his family have been regularly involved in Republican presidential politics (Tashman 2012). Ultimately, CCLOs engaging in brazen political action is not unheard of, and depending on the organization, is not at all uncommon.

CONCEPTUAL DEVELOPMENT

It is now appropriate to spend time on how the concepts introduced earlier in this dissertation can be further developed using this chapter’s data and findings. Importantly, these concepts can tell us a great deal about not only Christian legal advocacy groups, but legal advocacy organizations more generally. As such, this study leads to an improved broader understanding of how social movement organizations engage in legal mobilization in American society.

Organizational Structure

It is my contention, based on the evidence presented in chapter two and in this chapter, that no CCLO is equal to another in terms of organizational structure and available resources. I

¹¹ Multiple CCLO and CCLO-affiliated attorneys supported this suggestion. One attorney told me that the ACLJ needs to be more careful about its overtly political activities as they could be in danger of jeopardizing their 501(c)3 status, while another said, “I think the ACLJ has taken a more policy-oriented direction than ADF” (Interview, Crain).

further suggest that the diversity among CCLOs in their advocacy efforts and issue emphases can be partly explained by variations in structures and resources. Indeed, this chapter's findings suggest that a CCLO's resources and organizational structure are critical components to that organization's behavior. The data presented and analyzed in this chapter illustrate the importance of organizational structure to a group's legal advocacy efforts.

Consider, for example, ADF. This organization, in addition to having impressive financial resources (see chapter two), boasts a developed and trained network of allied attorneys, lawyers who dedicate their own time and resources to pursuing legal efforts on behalf of ADF. This is one of the factors that has allowed ADF to file so many cases in state and federal court over the years, leading the pack among CCLOs. Indeed, establishing a network of allied attorneys is a model that separates ADF from other CCLOs (not including LC, which boasts a similar yet smaller recruiting and training apparatus). Furthermore, ADF also boasts the most staff attorneys of any CCLO, a fact owed to its financial resources: "There's some things we've been able to accomplish at ADF solely because of our staff size" (Interview, Stanley). By expanding its reach through allied attorneys and a larger staff, ADF is able to have its hand in more cases than any other CCLO, allowing the organization to publicize these efforts to its constituents and donor base.

NLF and CLRF represent the other side of the organizational structure and resources coin. Both groups are on the low end of financial resources and staff size among CCLOs (see chapter two), despite being the two oldest CCLOs.¹² Not surprisingly, these groups are also on the low end of case sponsorship and direct litigation, with CLRF and NLF officially sponsoring

¹² Steven Fitschen, President of NLF, reported that his organization only employs between one and three staff attorneys, including himself (Interview, Fitschen). CLRF is similar in size, with its senior counsel, Kim Colby, being the only full-time attorney. Said Colby: "The recession hit us pretty hard, plus the normal cycle of nonprofits" (Interview, Colby).

only 25 and 16 cases in the state and federal courts, respectively. And while CLRF does not maintain a press release archive, NLF ranked last among CCLOs in its press release activity. One exception to this is CLRF's amicus curiae advocacy, particularly in its collaborative efforts with other organizations in these briefs (see chapter four). With its given resources, CLRF has made a solid impression among CCLOs in the arena of amicus curiae advocacy.

Organizational structure and resources matter for social movement organizations, at least from a resource mobilization perspective (McCarthy and Zald 1977). The evidence presented in this chapter suggests that CCLOs are no exception: those with greater resources (financial, staff, and otherwise) tend to be more active across the range of mobilization and advocacy methods, while those with fewer resources tend to be less active. Chapter five will explore the extent to which (if any) disparities among CCLOs in resources and differences among CCLOs in structure affects the dynamics of these like-minded movement organizations.

Organizational Expertise

The data in this chapter suggest that there are certain issues and causes embraced by all CCLOs, especially issues involving religious freedom (in addition to religious establishment) and the sanctity of life. No matter the method of advocacy, every CCLO demonstrates a commitment to defending religious freedom and supporting the sanctity of life, especially in terms of opposition to abortion. But it is the unique causes endorsed and adopted by individual CCLOs that illustrate the importance of niche and organizational autonomy in legal mobilization and advocacy. I argue that organizational expertise plays a central role in explaining CCLO behavior and action, as well as the actions of legal advocacy groups more broadly.

As stated earlier in this chapter, movement organizations and interest groups identify specific issues and occupy a niche in order to stand out from an otherwise crowded industry of

activism; indeed, the evidence presented in this chapter implies that CCLOs are no exception.¹³ Past research suggests that advancing unique causes and establishing a niche in a populated movement industry allows organizations and interest groups to better establish their own autonomy (Wilson 1973; Gray and Lowery 1996). The evidence presented in this chapter supports these theoretical expectations. While CCLOs do draw on many of the same broader issue areas, it is when getting into specific issues that one can identify CCLOs establishing niches in advocacy on behalf of Christian conservatives in the United States. Put another way, even though CCLOs may be serving the same broader clientele (that is, Christian conservatives), the specific things they do and actions they take help separate them from the rest of the pack as “special” or “expert.”

CLRF, for example, made its mark in Christian legal advocacy for its ability to work with a broad coalition of interests, especially in cases involving religious freedom. This unique approach to legal advocacy gained CLRF respect outside of the Christian Right while simultaneously winning victories that benefit the Christian Right. Additionally, the TMLC finds a niche in its wide-ranging opposition to Islam (although the ACLJ is also somewhat active in that regard), as well as in its declared support of religious freedom exclusively for Christians. And ADF outpaces all other CCLOs in a vibrant and active training program for attorneys and law students, giving them

This is not to say that CCLOs do not duplicate work on specific issues, however. For example, ADF started “Pulpit Freedom Sunday” in 2008, encouraging pastors to speak about candidates for elected office and promising to defend them should the Internal Revenue Service threaten their church’s tax exempt status. The event became a regular occurrence on ADF’s calendar, and confirmed participation in the event increased from 33 churches in its inaugural

¹³ Chapter five delves into this in greater detail, drawing on interviews with movement attorneys.

year to over 1,600 in 2012 (Interview, Stanley). While being under the umbrella of religious freedom, ADF's Pulpit Freedom Sunday is an example of niche advocacy.

In 2012, however, LC also began to get involved in this arena of advocacy, sending booklets to over 100,000 pastors informing them of their abilities to speak out on issues from the pulpit.¹⁴ Mat Staver, founder of LC, said, "I am beginning to see more and more pastors waking up and realizing that Biblical and moral issues are under attack.... This isn't politics; it is Biblical and moral issues that have been politicized" (LC 2 November 2012). In its press release highlighting the booklet's distribution, LC obviously did not refer to ADF's older and ongoing project. In this way, LC's work on this specific issue is an attempt to gain traction on an otherwise niche issue. Such behavior could presumably lead to tension and rivalry between the two groups, a possibility mentioned and explored further in chapter five. Regardless, organizational expertise as a concept seems to have real implications for how CCLOs engage in legal mobilization and advocacy.

Conclusion

In this chapter I have demonstrated that Christian legal advocacy groups do not comprise a homogeneous industry of social movement activism, whether seen in terms of causes and issues or in terms of specific methods of legal advocacy. Across methods and issues, CCLOs exhibit tangible variation in their organizational behavior and activity, and this variation has at times led to tension among these groups. Thus, variation and diversity in the CCLO industry has implications for the work and dynamics among members of this industry.

But apart from exploring the variation among individual groups and identifying specific areas of organizational expertise, what does this industry of legal groups for the Christian Right

¹⁴ One distinction between LC's work and ADF's work is that LC did not encourage pastors to break existing law, but rather educated them on what they could and could not say from the pulpit.

actually look like? That is, how do CCLOs work, operate, and behave in the context of various competing movement organizations, each one committed to most of the same policy and strategic agenda on behalf of the same social (in this case, religious) movement? And, most importantly, what does this mean for these groups' legal advocacy efforts on behalf of Christian conservatives and the Christian Right in American politics? In the following chapter I turn to a network analysis of the CCLO industry, using various conceptualizations of relationships (or *ties*) among CCLOs to explore the structure of this network, as well as to identify the most important and influential (or *central*) CCLOs in this industry of related movement organizations within the Christian Right in American politics.

CHAPTER FOUR

ORGANIZATIONAL RELATIONS, PART I: THE STRUCTURE OF THE CCLO INDUSTRY AND NETWORK

“It’s like having a network of colleagues you can turn to. You get the composite wisdom of all involved.”

--- William Becker

Affiliated attorney, Alliance Defending Freedom & Thomas More Law Center

There are six CCLOs dedicated to using the law to advance the multi-issue agenda of the broader Christian Right movement. These are distinct organizations, but together they form a network of organizations that interact. In this chapter, I examine the structure of this network. Attending to the structure of the CCLO network will not only illuminate and contextualize the earlier chapters of this study, but will also shed light on the most influential and central¹ CCLOs in this unique movement industry. This will ultimately help answer the question central to this chapter: how do CCLOs work together in the actual business of advocating for their clients and causes? In answering this question I further develop the concept of organizational relations among movement organizations in the same industry, illustrating its importance in contributing to organizational identity among interacting groups.

In this chapter I utilize social network analysis (SNA) to study the legal advocacy network of CCLOs. In doing so I explore two related yet distinct network conceptualizations: case sponsorship at all levels of the state and federal judiciary, and the filing of amicus curiae

¹ When I use terms like “central,” “centrality,” and “influence” in this study, I am not merely implying the spatial location of one organization relative to other, periphery groups. Instead, centrality in network parlance alludes to “power, influence, status, and control of information” in a given network (Paik et al. 2007). Thus, when I write of a CCLO being central, I am suggesting that this organization is not merely located at the center of the network, but rather that this group contains many connections to a variety of organizations in the network; such a multitude of ties increase an organization’s centrality score in SNA metrics, which indicates relative influence in the network.

briefs at the U.S. Supreme Court.² Network analysis will highlight the most central CCLOs in this industry, while also pointing to non-CCLO organizations occupying influential and meaningful positions among the CCLOs. It will also identify which groups work with whom and which groups bridge—or link together—the broader coalition. Ultimately, by utilizing SNA in analyzing two different conceptions of the CCLO network I am able to point to not only the structure of these networks, but also to the more influential and central actors in this industry, as well as the various constituencies emerging within this network. This will pave the way for the forthcoming chapters in this dissertation, which will consider the implication of these findings in analyses of organizational diversity, variation, and interactive dynamics among competing yet like-minded CCLOs, advocacy groups aiming to shape policy in the legal arena.

Social Network Analysis of the CCLO Industry

What is a network approach to social science, and what can network analysis tell scholars about social and political phenomena? Simply put, the network approach assumes that a network, composed of individual actors or institutions (nodes), can be studied to discover how this network affects the nodes within the network. In a study on a given network, much attention is given to the ties between nodes, as these ties connect individual nodes within a network and thus point to communication, cooperation, or some other indicator of node relations with one another. The network perspective also focuses on different nodes' positions of centrality and influence within the network, with an emphasis on position and information sharing (e.g., Granovetter 1973 and Carpenter et al. 2003). Simply put, the network perspective approaches politics and

² I am not alone in limiting my focus of amicus participation to the U.S. Supreme Court: several previous studies have done the same (Caldeira and Wright 1990; Collins 2008; Hansford 2011), mostly because of theoretical reasons centering on the Court's visibility with an organization's constituency and because organizations are more apt to file amicus briefs at the Court than at other venues.

political questions from a relational point of view, assuming that actors do not act in isolation from one another.

As a methodological technique in the tradition of the network perspective, social network analysis has been utilized in a plethora of studies in both political science and sociology research (Diani 2003; Lazer 2011). Focusing on research in American politics, network studies have explored elite representation in policy-making (Heinz et al. 1990), bill cosponsorship networks in the U.S. House of Representatives (Fowler 2006), and the effects of networks on voting behavior (Nickerson 2008), to name just a few. In the realm of research on law and courts, a recent study focused on amicus curiae networks at the Supreme Court (Box-Steffensmeier and Christensen forthcoming), while another explored legal precedent networks at the Supreme Court (Fowler et al. 2007). These studies, while focusing on different questions and puzzles in American politics and public law, each demonstrate the value and utility of embracing the network perspective in researching political science.

Several studies on the conservative legal movement and broader legal profession have also embraced a network perspective—and have utilized SNA—in order to assess the structure and composition of these communities, as well as to point to the influential actors and organizations in this realm of legal advocacy. These studies have focused on the lawyers comprising this community of conservative legal advocacy, ranging from investigating how these attorneys make up various constituencies of the movement (Heinz et al. 2003) to exploring how these lawyers are organized in these constituencies, as well as identifying particular actors of influence within the network (Paik et al. 2007).

Southworth's (2008) book on the CLM went deeper in exploring how this network is organized and structured, as well as touching on how the various constituencies of the CLM

work with and shy away from each another. A later study from this same enclave of scholars explored the broader network of political legal advocacy (Paik et al. 2011), identifying advocacy constituencies and mediating attorneys much in the same way as Paik et al (2007); this implies that the CLM is no outlier in the broader community of legal mobilization in the United States. It is clear that this dissertation, with its emphasis on CCLOs and Christian legal advocacy, finds a natural home among this earlier research on legal networks, both in and outside the CLM.

Beyond legal advocacy and mobilization in the American political process, several studies have used SNA in the religion and politics sphere, using the network approach to explore phenomena in this arena of research. One study on Evangelical elites in American society stands out as particularly helpful (Lindsay 2006). Aside from its substantive findings, this study provides an excellent example of research adopting the network perspective but presenting its results without the quantitative analysis so common in studies endorsing such a perspective. Given the qualitative nature of my own research, Lindsay's research is instructive for me as I break down the results in this chapter and use them to speak in largely qualitative terms about the CCLO industry in various realms of legal advocacy.

But the importance of the network approach (and SNA) to this dissertation—as well as the importance of dedicating a chapter to exploring the networks among CCLOs—can be seen when understanding the value of networks to interest group and social movement organization advocacy, legal and otherwise. In his book on religious lobbying in Washington, Hertzke (1988) rightly observes that religious groups (in this instance, Christian) contribute uniquely and effectively to the interest group system. Since Christians are called to lose their lives to gain the Kingdom, the collective action problem as described by Olson (1965) is theoretically not as big a problem for Christian interest groups and social movement organizations (Hertzke 1988, 10).

Hertzke's (1988) attention to the importance of networks in lobbying and advocacy is equally insightful, as he points to the Christian Legal Society's twin benefits of providing support to Christian attorneys as well as "[creating] a 'Christian' network of influential attorneys, something akin to the 'old boy' network of prep school graduates" (197). By establishing these networks, Christian attorneys seek to have influence in the public sphere; the proliferation of CCLOs has led to a similar phenomenon, at least in terms of opportunities for networking and improved resource-sharing among Christian conservative attorneys. According to one lawyer, "[Affiliating with ADF] is like having a network of colleagues you can turn to. You get the composite wisdom of all involved" (Interview, Becker).

The studies referenced above not only situate this chapter in its appropriate research context, but they also justify the use of network analysis in exploring and illuminating key questions in political science and sociolegal research. What is more, while prior studies incorporating a network approach to their research design have focused on important questions in these areas of inquiry, it is clear that the road taken in this chapter has not yet been taken in previous research, especially with its focus on the *organizations* (as opposed to attorneys) comprising a unique social movement industry. Thus, this chapter speaks to prior research on the CLM through shining light on one particular constituency of this movement and demonstrating how it is structured in two different conceptualizations. At the same time, however, it lays the groundwork for the forthcoming chapters in this dissertation by digging into the CCLO network and identifying organizational partnerships, cooperative efforts, and competitive tendencies.

Methodology

In this chapter I explore the structure of the CCLO network, comprised of the industry of social movement organizations dedicated to legal advocacy on behalf of the Christian Right in

American politics. I do this in order to not only describe the structure of this industry, but also to identify the most influential and central organizations in this industry. This network obviously includes and is primarily centered on the six organizations introduced and described in the previous chapter: ADF, the ACLJ, CLRF, LC, NLF, and the TMLC. But while these six organizations comprise the CCLO industry, what does the CCLO network actually look like and what can it tell us about the CCLOs inhabiting it? This is the question motivating this chapter.

In order to answer the question of how the CCLO network is structured and, more importantly, what this means for Christian legal advocacy and the interaction among movement organizations in this industry, I must first define the term “network” in the context of this study. That is, how am I to conceptualize and define “network” for the CCLO industry? Given that CCLOs are legal organizations first, there are two clear ways of defining the CCLO network that not only get at how these organizations interact with one another (a primary goal of network analysis), but also how they aim to realize their preferred policy outcomes: case sponsorship at the state and federal levels, and the filing of amicus curiae briefs before the Supreme Court.³

Why focus on these two conceptions of the CCLO network? Case sponsorship is indicative of interest in a case, given the time, costs, and preparation involved in filing suit and seeing a case through from beginning to end. And if a CCLO sponsors a case with another legal organization, these groups can be seen as working closely together on an important legal project. In this sense, this network ought to best capture CCLOs’ professional partnerships with other groups. On the other hand, filing an amicus curiae brief indicates strong support for or interest in

³ These two conceptualizations are not the only ways to define the CCLO network. Previous research on the conservative legal movement has embraced other conceptualizations and definitions of networks among public interest law firms and lawyers, such as funding sources (Heinz et al. 2003) and law school attendance (Paik et al. 2007). But since both of the conceptualizations of the CCLO network presented in this chapter get at the questions central to this dissertation (especially the question of the cooperative and competitive dynamics among rival yet like-minded groups), limiting this analysis of the CCLO network to these two practical, legally-focused categories is a sound approach.

a particular case outcome, as filing these briefs can be time-consuming and expensive (Caldeira and Wright 1988; Caldeira and Wright 1990). In this area of advocacy, other organizations can either “join” the brief (by simply appearing on the brief as an interested party) or contribute to the production of the brief. In this sense, this network ought to best capture CCLOs’ advocacy partnerships (legal or otherwise). Fortunately, the data for both of these network conceptions are relatively easy to collect and to analyze. And importantly, these two conceptions of the network provide a glimpse into the different communities CCLOs may occupy: the strictly legal (as seen in case sponsorships) and the somewhat advocacy-oriented (as seen in amicus filings).

Ultimately, in this chapter I take what previous scholars have done in terms of network analysis and apply it to the study of CCLOs, all to pursue a better understanding of what the CCLO network looks like from two related yet distinct perspectives. What this can tell us about the CCLO industry and, more broadly, the community of Christian Right advocacy is a conversation to be had in the discussion section of this chapter, as well in the forthcoming chapters of this dissertation.

DATA COLLECTION AND PRESENTATION

In attempting to better understand the CCLO network, I focus on two related yet distinct conceptualizations of this network: the case sponsorship network and the amicus curiae network. In collecting data for this chapter primarily relied on LexisNexis, which provides a comprehensive database of both state and federal cases and Supreme Court amicus curiae filings. My decision to rely on LexisNexis as the sole medium in data collection in this study is supported by previous studies establishing LexisNexis as a reliable database for research in political science and other fields (Hanssen 1999; Giles et al. 2006; Smith 2006; Hansford 2011).

When collecting data on case sponsorship in state and federal courts, I navigated to the “U.S. Federal and State Cases” tab of LexisNexis’ “U.S. Legal” category. I entered each CCLO (one per search) in the search bar and narrowed the search terms from “Everywhere” to “Attorneys” so that the search results would include only those instances where a CCLO was directly involved in the case.⁴ I then went through the results, case by case, and determined whether: a) the CCLO in question was indeed a participating counsel (whether litigating for the plaintiff or defendant, litigating for an intervening party, or acting as a movant) in the case; or b) the CCLO was working with another legal organization in litigating the case.⁵ I then entered this information into a spreadsheet, which I later converted into a symmetrical, undirected⁶ matrix for analysis.

Two points are worth stating here. First, I expanded this network to a second level, including not only CCLOs’ ties to other groups, but also these other groups’ ties to even more groups (the amicus curiae network, on the other hand, only includes CCLOs’ ties to other groups). For example, after finding that the ACLJ had co-litigated a case with the Landmark Legal Foundation (LLF), I then searched for the LLF in the same fashion as I had done with the ACLJ and other CCLOs. This search revealed that the LLF had cosponsored a case with the Institute for Justice, a libertarian legal group not appearing in the first level of my network. I expanded this network to two levels to not only increase the size of the network (and even after, its size paled in comparison to the amicus curiae network), but also to get a fuller picture of the

⁴ As far as I can tell, the LexisNexis database only includes cases from the appellate or supreme court levels of the various state judiciaries, while omitting cases terminating at lower levels. These cases, therefore, were not included in my analysis, which helps explain the lower-than-expected case sponsorship numbers from some CCLOs, particularly LC.

⁵ Cases marked as filed by September 30, 2012 (as noted in the LexisNexis database) were included in my dataset.

⁶ A social network can either be directed or undirected: the former indicating that A links to B but B does not link to A, and the latter indicating that A and B are linked without attention to the direction of this link. In this chapter, both CCLO network conceptions are undirected because CCLO and Group X, when filing an amicus brief together or sponsoring a case together, do so *together* each time; CCLO cannot sponsor a case with Group X without Group X sponsoring that case with CCLO.

collaboration among legal groups in the sense of direct involvement on cases. This second level places CCLO litigation activity in the broader realm of general public interest litigation, situating and contextualizing Christian legal advocacy in legal mobilization more generally.

Second, in order to combat inflated sponsorship numbers and guard against misleading results, I only included one appearance of each case in my analysis. For example, it was not uncommon for an iteration of a case to appear in search results multiple times (once at the district court level, once at the appellate court level, again at the district court level, and so). But unless there was a change in the parties litigating the case from one level to another (that is, if the ACLJ sponsored Case X at the district court level without any cosponsors, only to cosponsor it with another group at the appellate level), I did not include multiple iterations of a case in my collected data.

I now move on to the data collection procedures for the other CCLO network conceptualization: the amicus curiae network. When collecting data on amicus curiae filings at the Supreme Court, I navigated to the “Supreme Court Briefs” tab of LexisNexis’ “U.S. Legal” category. One CCLO at a time, I entered each CCLO in the search bar and narrowed the search terms from “Everywhere” to “Counsel.” I also entered the term “amicus” in another search bar on the main search page and narrowed the search terms to “Brief Type” in order to focus my results on amicus curiae briefs. At this point I went through the results, brief by brief, and determined whether: a) the CCLO in question was indeed responsible for filing the amicus brief; and b) what organizations (if any) appeared along with the CCLO in question on the brief (either as parties to the brief or contributing counsel to the brief).⁷ I then entered this information into a spreadsheet, which I then converted into a symmetrical, undirected matrix for analysis.

⁷ Briefs marked as filed by August 30, 2012 (as noted in the LexisNexis database) were included in my dataset.

I utilized NodeXL in visualizing and analyzing this data. NodeXL is an extension compatible with Microsoft Excel, providing graphs and metrics for a given network (entered in the form of an Excel matrix, either directed or undirected). I imported each network matrix into NodeXL, which generated the graphs and calculated the statistics presented in the pages that follow. Each graph was drawn using the Harel-Koren Fast Multiscale setting, which presents a clear and visually appealing image in networks of many edges and vertices (Harel and Koren 2002). Each node was then scaled (from 1 to 100) and sized relative to the other nodes in its given network graph, contingent on the varying weights of each node in that network.⁸

NodeXL also calculates various network statistics and metrics helpful in analyzing a given network. In this chapter I rely on three metrics in interpreting the CCLO network via its nodes: degree, betweenness centrality, and closeness centrality. Each of these metrics tells us something different about a given node in the network. For example, degree refers to the number of ties a given node has with other nodes; a node's degree is calculated by the number of ties incident to that node, which is suggestive of how many connections a node has in the network.⁹ Second, betweenness centrality refers to the propensity of a given node to act as a bridge on the shortest distance between two other nodes; greater betweenness centrality indicates greater mediation among nodes lacking direct ties. Finally, closeness centrality refers to the spatial distance between a given node and the other nodes in the network, in terms of ties between and among nodes; greater closeness centrality indicates lower distance to all nodes in a network.

⁸ For example, consider the full amicus curiae network: the ACLJ filed the most briefs of any group in that network, with a total of 70. Therefore, it was scaled and sized with a value of 100, the maximum permitted in NodeXL. The CLRF filed 48 amicus briefs in my sample, making its scale value 68.57 $[(48/70) \times 100]$.

⁹ In a directed network (where Node A can link with Node B without Node B linking with Node A), other measures of degree (in-degree and out-degree) can be calculated. But since the CCLO network is undirected, only degree may be calculated.

Compared to network graphs, which provide a helpful yet analytically limited interpretation of the CCLO industry, network metrics provide more substance in terms of interpretation of nodal relations in a network. Thus, in the pages that follow I rely on both network graphs and network metrics and statistics to interpret the CCLO network. In doing so, I present a visually appealing yet analytically substantive picture of the CCLO network, seen in terms of case sponsorship and amicus curiae filings. Doing this allows me to return to the main questions motivating this chapter and dissertation: Do CCLOs tend to collaborate with one another or do they tend to work alone? And what can this tell us about CCLO advocacy, and legal advocacy more generally?

Results

Tables 4.1 and 4.2 provide descriptive statistics on each CCLO's role in its network. In Table 4.1 we see that ADF, despite only beginning direct litigation in 2001 (Interview, Scott), has sponsored the greatest number of unique cases in the state and federal courts. ADF has also worked with the greatest number of cosponsors (including other CCLOs) in their cases. The ACLJ, meanwhile, has sponsored the second-greatest number of unique cases in the state and federal courts, but has worked with the proportionally-fewest number of cosponsors. And CLRF, while filing the second-least number of cases, has worked with the proportionally greatest number of cosponsors. NLF has litigated the fewest number of cases among CCLOs, but did so collaboratively about a quarter of the time.

Table 4.2 presents similar trends: The ACLJ has filed the most amicus curiae briefs before the U.S. Supreme Court of any CCLO, but has filed with other groups at the second-lowest rate of any CCLO (better only than LC, which does so less than 25 percent of the time). CLRF, meanwhile, has filed the second-most amicus briefs before the Court, and has filed with

Table 4.1 – CCLO case sponsorship

CCLO	Cases sponsored	With cosponsor(s)
Alliance Defending Freedom	235	59
American Center for Law and Justice	139	19
Center for Law and Religious Freedom	25	12
Liberty Counsel	92	10
National Legal Foundation	15	4
Thomas More Law Center	49	16

Table 4.2 –CCLO amicus curiae participation

CCLO	Briefs filed	With co-filers
Alliance Defending Freedom	33	24
American Center for Law and Justice	70	23
Center for Law and Religious Freedom	48	35
Liberty Counsel	30	7
National Legal Foundation	30	11
Thomas More Law Center	13	6

at least one other organization almost 75 percent of the time. Likewise, ADF, while filing only 33 amicus briefs before the Court, does so with one or more groups better than 70 percent of the time. And the TMLC, while filing the fewest number of amicus briefs, does so with one or more groups almost half the time.

One picks up on a pattern when reading Tables 4.1 and 4.2 together: ADF and CLRF tend to collaborate in their advocacy with one or more organizations, while the ACLJ and LC tend to go it alone. And while these tables are useful for presenting simple data of CCLO advocacy, in utilizing SNA one can get a more complete picture of not only the extent of each CCLO's advocacy, but also each CCLO's position of centrality (and subsequent influence) in each network conceptualization. I now turn to the figures and tables for both conceptions of the CCLO network, with network metrics and statistics to follow each figure.

CASE SPONSORSHIP NETWORK

Figure 4.1 presents the network graph of case sponsorship among CCLOs, including CCLOs and the organizations with which they sponsored cases at the state and federal courts. This graph highlights the dominant position of ADF in cosponsoring cases with one or more organization. Visually speaking, no other CCLO appears to have anywhere close to as many ties to other groups as ADF, which acts as a hub of sorts for other legal groups in this CCLO network. NLF, meanwhile, appears to be the least connected CCLO to other groups, with TMLC a close second. And in terms of scaled size, ADF again dominates, with the other groups much closer in size to one another. Consistent with the data in Table 4.1, a glance at the graph in Figure 4.1 further shows ADF's prominence in the CCLO network.

But what of the statistical measures of influence and centrality in the CCLO case sponsorship network? Turning to Table 4.3 one can see that ADF does indeed rank highest in this network in terms of degree, betweenness centrality, and closeness centrality; in all three metrics, ADF overwhelmingly exhibits the most influential position in this network of case

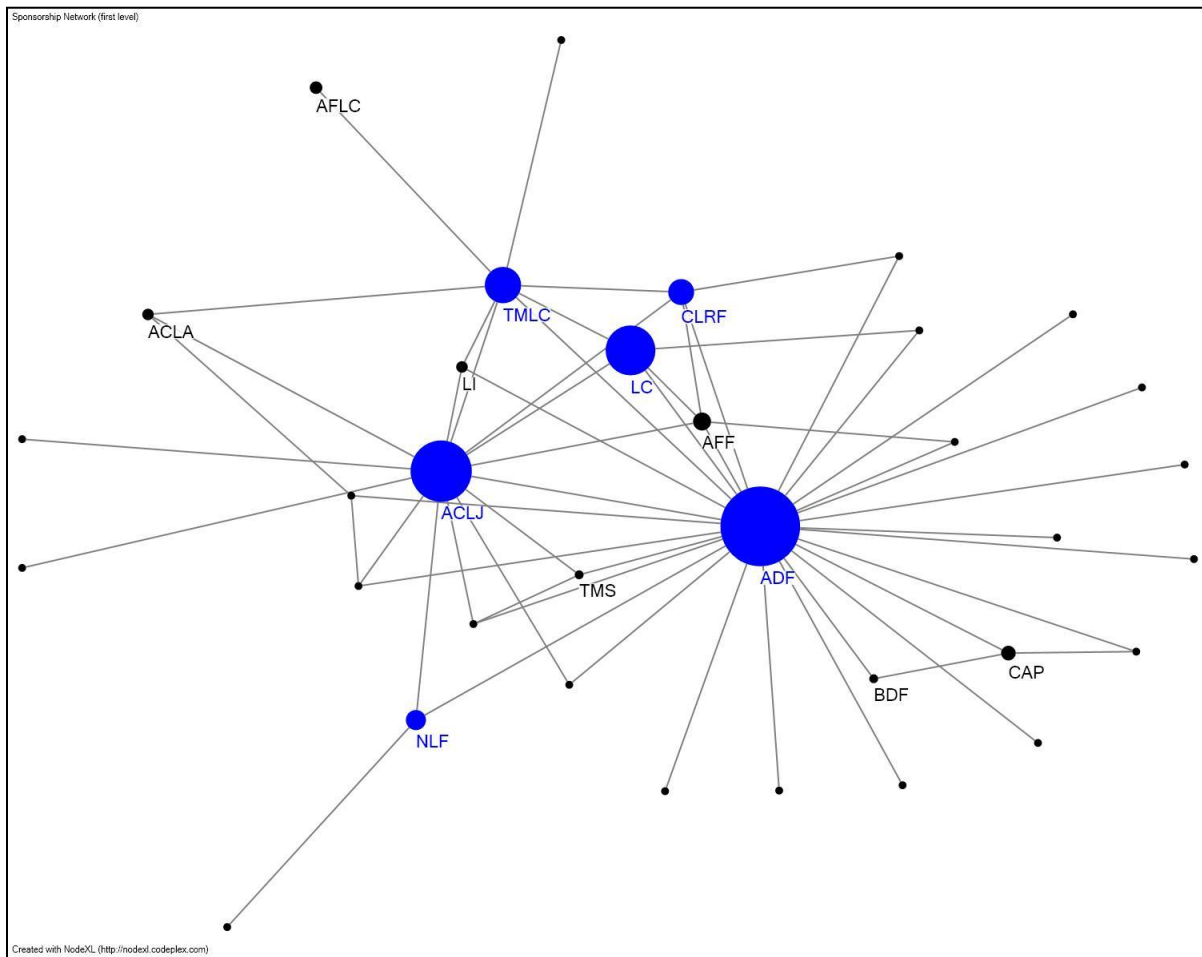


Figure 4.1 –Case sponsorship network graph (Level 1)

cosponsorship. Such statistical consistency is found among most groups, with values in one measure seeming to correspond to values in the other measures.

One interesting exception to this trend is NLF’s betweenness centrality score, which ranks fourth among CCLOs despite being last among CCLOs (and even behind a non-CCLO) in terms of degree. What explains such a high betweenness centrality value for NLF? Looking at the network graph in Figure 4.1, it appears that NLF’s ties to ADF and the ACLJ, which respectively ranked first and second in degree, boosted its betweenness centrality value (but not their closeness centrality score). Overall, though, the metrics obtained from analyzing this

Table 4.3 – Case sponsorship network metrics (Level 1)

Group	Degree	Betweenness Centrality	Closeness Centrality
Alliance Defending Freedom	27	400.2	0.026
American Center for Law and Justice	14	106.3	0.019
Thomas More Law Center	8	70.8	0.017
Liberty Counsel	5	4.7	0.016
Center for Law and Religious Freedom	5	4.7	0.016
Advocates for Faith and Freedom	5	4.0	0.016
National Legal Foundation	3	32.0	0.015
Center for Arizona Policy	3	0.5	0.014
American Catholic Lawyers Association	3	2.5	0.013
Liberty Institute	3	0.0	0.016
Thomas More Society	3	0.0	0.015
Bioethics Defense Fund	2	0.0	0.014
American Freedom Law Center	1	0.0	0.011

Table sorted by degree, with groups having a size ratio greater than 1.0 included

network support its graphical depiction: ADF is unquestionably the most central and influential organization in case sponsorship among CCLOs.

Whereas the previous iteration of the CCLO network included only CCLOs and groups sponsoring cases with them, I also collected data on the second level of case sponsorship among CCLOs. In this way, this network includes not only CCLOs and their friends, but also the friends of CCLOs’ friends.¹⁰ In doing this I am able to present a more complete picture of the litigation

¹⁰ I use the term “friend” to mean a group with whom another group cosponsors a case, files a brief, or otherwise engages in legal advocacy in a partnering manner.

community in which CCLOs are broadly situated, and am also able to consider how many cases CCLOs' friends sponsored when they were not filing with a CCLO. This allows for better contextualization of CCLOs' centrality and influence in an expanded, broader legal network of case sponsorship.

Figure 4.2 graphs this second level network, including case cosponsorship information for CCLOs, their friends, and their friends' friends. The first thing one observes about this network is its similarity to the previous network, at least visually. ADF again appears to be a hub

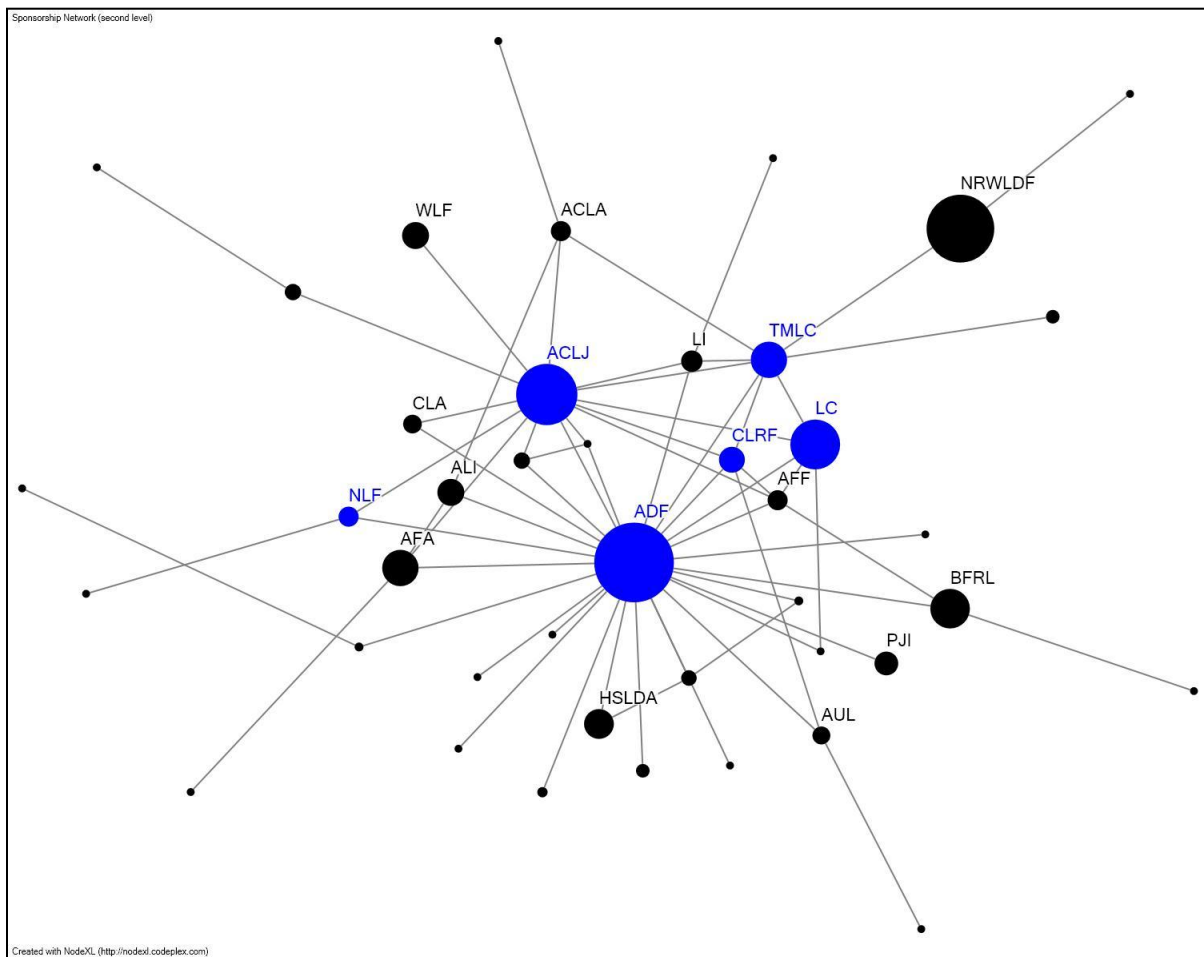


Figure 4.2 –Case sponsorship network graph (Level 2)

for groups in this network, and also appears to connect to other organizations more so than other CCLOs. This similarity, however, makes sense, given that the connections among CCLOs and other groups did not change in this revised network. But the network does exhibit differences relative to the first one, mostly due to the increasing size ratios of several non-CCLO nodes. These include Christian Right advocacy groups (the American Family Association, or AFA), single-issue legal groups (the Home School Legal Defense Association, or HSLDA), broader religious liberty groups (the Becket Fund for Religious Liberty, or BFRL), and broader conservative legal groups (the National Right to Work Legal Defense Foundation). This graph also depicts the paltry number of friends sponsoring cases with CCLOs' friends: even though six CCLOs cosponsored cases with a total of 28 friends, these friends only cosponsored cases with eight friends of their own.

Table 4.4 presents the statistics for this expanded case sponsorship network, including the friends of CCLOs' friends. Again, these metrics largely bolster the impressions taken from the graph. ADF is once again the top ranked CCLO in each measure, with the ACLJ and TMLC respectively second and third in all three metrics. After this, though, the network statistics reveal interesting details about this network. Specifically, while having a lower degree measure than both LC and CLRF, several organizations possess higher betweenness centrality scores than the two CCLOs, including the AFA, American Catholic Lawyers Association, and the Liberty Institute. These metrics are primarily owed to these groups' connections to other CCLOs (including the ACLJ and TMLC) as well as their ties to other, non-CCLO groups. In terms of closeness centrality, however, LC and CLRF outpace non-CCLOs. Thus, despite LC, CLRF, and NLF lacking ability to connect otherwise unconnected nodes (relative to groups with high

Table 4.4 – Case sponsorship network metrics (Level 2)

Group	Degree	Betweenness Centrality	Closeness Centrality
Alliance Defending Freedom	27	591.0	0.017
American Center for Law and Justice	14	191.8	0.014
Thomas More Law Center	8	134.3	0.013
Liberty Counsel	5	6.3	0.012
Center for Law and Religious Freedom	5	11.6	0.012
Advocates for Faith and Freedom	5	7.3	0.011
American Family Association	4	41.3	0.011
Liberty Institute	4	40.0	0.012
American Catholic Lawyers Association	4	44.3	0.010
Becket Fund for Religious Liberty	3	40.0	0.011
American Liberties Institute	3	14.5	0.011
National Legal Foundation	3	40.0	0.011
Americans United for Life	3	40.0	0.011
National Right to Work Legal Defense Foundation	2	40.0	0.008
Home School Legal Defense Association	2	0.0	0.010
Christian Law Association	2	0.0	0.011
Washington Legal Foundation	1	0.0	0.009
Pacific Justice Institute	1	0.0	0.010

Table sorted by degree, with groups having a size ratio greater than 5.0 included

betweenness centrality scores, that is), these groups do still mediate overall distances among nodes in this network in a more efficient fashion than most non-CCLOs.

AMICUS CURIAE NETWORK

I now turn to the CCLO network perceived via amicus curiae filings at the U.S. Supreme Court, as seen in Figure 4.3. One immediate observation of this network is its complexity relative to either of the previous network graphs, in terms of nodes and ties among nodes. This is likely because signing on to an amicus curiae brief requires less legal expertise, and more of a general interest in the issue in the case at hand (as opposed to actually writing a brief or sponsoring a case, which takes considerable legal expertise and effort). Overall, CCLOs filed amicus curiae briefs at the Court with 114 unique organizations, over four times as many groups cosponsoring cases with CCLOs.

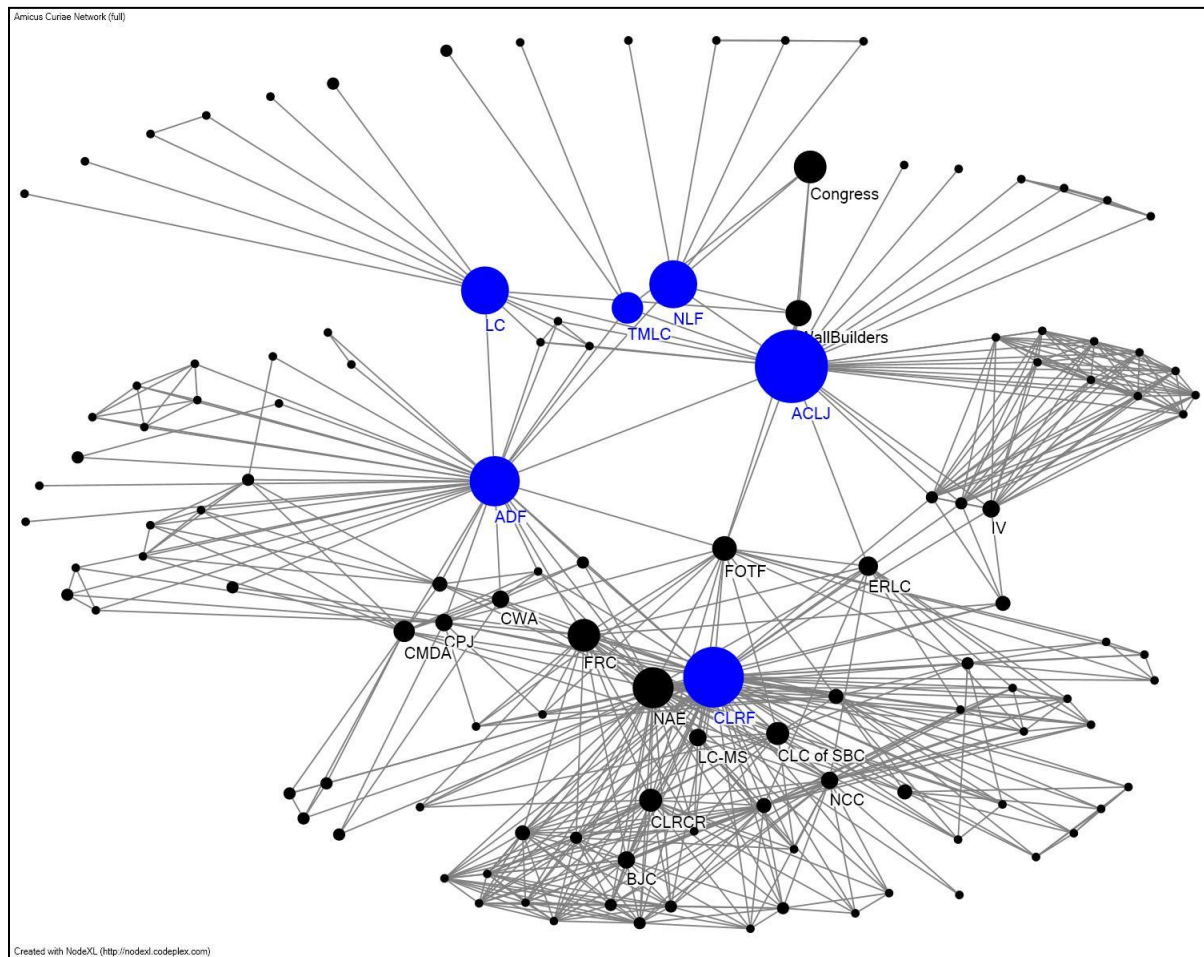


Figure 4.3 –Amicus curiae network graph (Full)

CLRF appears to be the most enmeshed CCLO in this network, at least in terms of being surrounded by and connected to other nodes. Additionally, several of the nodes in CLRF's vicinity (non-CCLOs) appear to be scaled larger than the nodes appearing in other regions of the network, indicating that these nodes have appeared on more amicus briefs than the average organization. Overall, the ACLJ is the largest node in this network, reflecting its status as having filed the most amicus briefs before the Court (70 in all); the ACLJ has also filed briefs with three other CCLOs, making the group the most active in terms of filing with other CCLOs. Three CCLOs appear on the periphery of this network relative to ADF, the ACLJ, and CLRF, not connecting to as many nodes as these three more graphically central groups.

With this graph in mind, what can Table 4.5 tell us about the amicus curiae participation network among CCLOs? First, ADF ranks highest in betweenness centrality among groups in this network, despite trailing CLRF in degree by 25. This suggests that ADF filed with more central groups than CLRF did. In addition, both ADF and CLRF posted identical closeness centrality measures, the highest of any group in the analysis.¹¹ Second, the ACLJ had a degree score of 30, even though the organization was the most active in filing amicus briefs. Thus, despite the most opportunities to tie to other nodes via filing amicus briefs together, more often than not the ACLJ acted alone in this method of legal advocacy.

Finally, there are a number of non-CCLO groups registering as influential in this network (in terms of degree and centrality). For example, the National Association of Evangelicals (NAE) has the second highest degree measure in the network, only trailing CLRF. The NAE's betweenness centrality score is the highest among non-CCLOs, and tops two CCLOs (TMLC and NLF) in that metric. Multiple non-CCLOs are comparable to these two CCLOs in this

¹¹ The reported closeness centrality measures in this network are markedly close together than in previous networks, likely due to the denser, populated nature of this network relative to the case sponsorship networks seen earlier.

Table 4.5 – Amicus curiae network metrics (Full)

Group	Degree	Betweenness Centrality	Closeness Centrality
Center for Law and Religious Freedom	62	2536.9	0.005
National Association of Evangelicals	44	818.1	0.004
Alliance Defending Freedom	37	2959.8	0.005
American Center for Law and Justice	30	1487.8	0.004
Catholic League for Religious and Civil Rights	26	54.6	0.004
National Council of Churches	24	45.5	0.004
Family Research Council	21	218.6	0.004
Baptist Joint Committee	21	11.8	0.003
Focus on the Family	18	430.4	0.004
Christian Life Commission of the Southern Baptist Convention	17	21.7	0.003
Christian Medical and Dental Association	15	160.7	0.004
InterVarsity	15	197.6	0.004
Liberty Counsel	12	699.4	0.004
Ethics and Religious Liberty Commission	12	184.1	0.004
Center for Public Justice	12	115.2	0.004
Lutheran Church – Missouri Synod	12	5.0	0.003
Concerned Women for America	9	17.6	0.004
National Legal Foundation	8	481.6	0.003
Thomas More Law Center	5	247.7	0.003
WallBuilders	5	54.5	0.003
Members of Congress	4	6.5	0.003

Table sorted by degree, with groups having a size ratio greater than 10.0 included

measure of centrality, including Focus on the Family (FF), the Family Research Council (FRC), and the Ethics and Religious Liberty Commission (ERLC). In this network some CCLOs appear to be less central and less tied to nodes than other groups, suggesting that in this realm of legal advocacy a group not need be a CCLO to exhibit centrality and influence.

However, there are many organizations that appear only once in this network, present in only one brief and then never heard from again. Law and courts scholars refer to these organizations as, among other things, “one-shotters,” an allusion to their one-time appearance before the Supreme Court (in terms of both *amicus curiae* filings and actual legal representation). Research suggests that these one-shotters are less effective in influencing the Court’s decision in a given case compared to “repeat players,” lawyers or groups that appear frequently before the Court in a variety of venues (Galanter 1974; McGuire 1993). Therefore, I also present the network in terms of only the repeat players in the network of CCLO advocacy, in order to capture the more professional constituencies of this network.

Figure 4.4 presents this updated network, which is clearly less populated than the network presented in Figure 4.4. What is more, the graph appears less cluttered now without the presence of groups who filed only one brief; this graph arguably provides a clearer picture of the CCLO network, seen in terms of consistent *amicus curiae* advocacy. As for the substance of the graph, CLRF still appears to occupy the densest position in the network, followed by ADF. Additionally, whereas in the prior figure the ACLJ was connected to a number of nodes (including a large cluster on the far right side of the graph), when one-shotter groups are removed the ACLJ’s presence in this network appears to have diminished significantly, at least in terms of ties to other nodes.

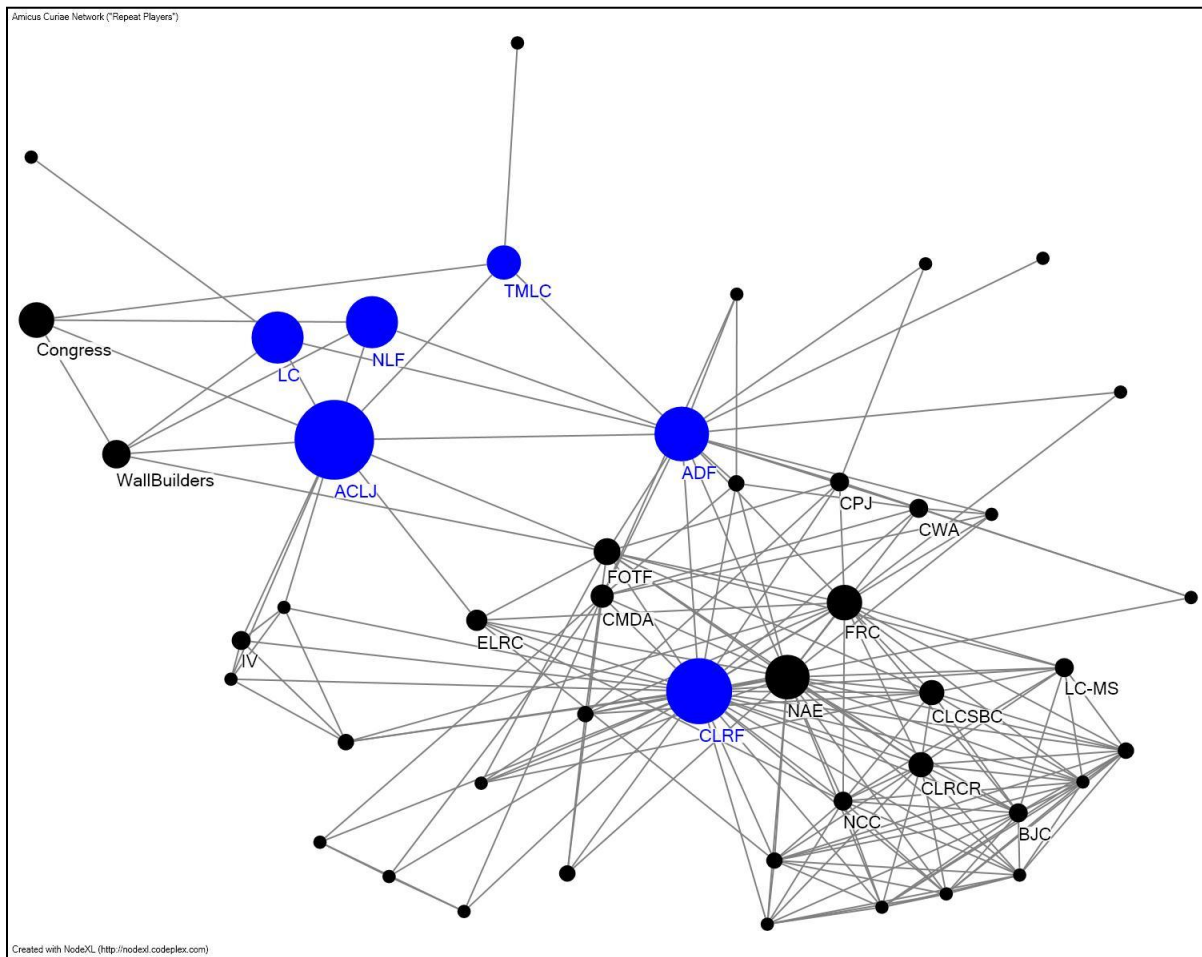


Figure 4.4 –Amicus curiae network graph (“Repeat Players” only)

The appearance of constituencies in this network are not as easily seen in this figure as they were in Figure 4.3, but they are still clearly there: CLRF’s cluster of nodes is, for the most part, separated from the other CCLOs, while Congress¹² is found on the far left side of the graph, far from the CLRF cluster and closer to the ACLJ, NLF, LC, and TMLC. ADF, meanwhile, appears to occupy a constituency of its own, apart from the other CCLOs but closest to CLRF. In sum, one can identify various constituencies within the CCLO network when viewing a graph of the network.

Turning to Table 4.6, betweenness centrality measures for all groups in the network are

¹² Anytime a CCLO filed a brief with any member(s) of Congress, I coded this as evidence of filing with Congress.

Table 4.6 – Amicus curiae network metrics (“Repeat Players” only)

Group	Degree	Betweenness Centrality	Closeness Centrality
Center for Law and Religious Freedom	33	340.2	0.017
National Association of Evangelicals	25	122.0	0.015
Alliance Defending Freedom	17	274.5	0.014
Family Research Council	16	54.4	0.013
Catholic League for Religious and Civil Rights	15	8.7	0.012
Baptist Joint Committee	14	4.2	0.011
National Council of Churches	14	5.7	0.011
Focus on the Family	13	67.5	0.013
Christian Life Commission of the Southern Baptist Convention	12	5.3	0.011
American Center for Law and Justice	11	74.7	0.011
Christian Medical and Dental Association	11	36.5	0.012
Lutheran Church – Missouri Synod	10	1.7	0.011
Center for Public Justice	8	20.1	0.012
Concerned Women for America	8	6.6	0.012
Ethics and Religious Liberty Commission	7	14.1	0.011
WallBuilders	5	10.6	0.009
InterVarsity	5	4.8	0.011
Liberty Counsel	4	45.8	0.009
National Legal Foundation	4	7.0	0.009
Members of Congress	4	1.7	0.008
Thomas More Law Center	4	49.2	0.009

Table sorted by degree, with groups having a size ratio greater than 5.0 included

lower relative to the previous network; this is due to fewer groups (only repeat players) being part of this iteration of the network. Related to this, three CCLOs (LC, TMLC, and NLF) are

now outranked in all three network metrics by several non-CCLOs, including the NAE, FF, and the FRC. The ACLJ, meanwhile, is outpaced by the NAE in all three measures and is ranked behind several groups of closeness centrality, including the Concerned Women for America and Catholic League for Religious and Civil Rights and Concerned Women for America. Given the ACLJ's lack of connectivity to other nodes in this network despite filing the most amicus briefs overall, this is not too surprising.

Discussion

Sponsoring cases and filing amicus curiae briefs before the U.S. Supreme Court is the most visible and important way for CCLOs to advance their interests and causes through the law. By looking at their pattern of working together, we see the extent to which CCLOs overcome collective action problems and how they connect with other actors in the Christian Right movement (legal or otherwise). Overall, this social network analysis shows that while CCLOs do tend to interact on a regular basis and across different forms of advocacy, some groups clearly interact and work together more frequently than others.

In this analysis ADF emerged as the most consistently central organization in the CCLO industry. In terms of case sponsorship, ADF sponsored more cases than any other CCLO and emerged as the most influential actor in this network. And though ADF filed far fewer amicus curiae briefs than the ACLJ or CLRF, the briefs it did file tended to include cosponsors; rarely did ADF file an amicus brief on its own. These results suggest ADF is an active participant of the CCLO network, especially when it comes to involving other organizations in its work. ADF appears to embrace a consistently collaborative approach to legal advocacy in case sponsorship and amicus curiae filings, not shying away from teaming up to pursue the goals of Christian conservatives in the legal realm.

The ACLJ provides a fascinating and stark contrast to organizations like ADF. For example, the ACLJ sponsored the second-most number of cases in this study, but had the second-lowest rate of case cosponsorship. In terms of amicus curiae participation before the Supreme Court, the ACLJ's propensity to work alone is even more obvious: despite filing the most amicus briefs of any CCLO, the ACLJ was outpaced by multiple groups in terms of centrality to the CCLO network. Perhaps the best evidence for the difference between the ACLJ and groups like ADF and CLRF is found in Figure 4.4, where the ACLJ, the largest node in the network, exhibits markedly fewer ties to nodes than those two other, "smaller" CCLOs. Especially considering the sheer volume of its activity in case sponsorship and amicus curiae advocacy, the ACLJ is clearly not as collaborative as other CCLOs in its legal advocacy work.

Like ADF, CLRF was also consistently collaborative in the CCLO network, particularly in terms of amicus curiae participation. Concerning case sponsorship, CLRF sponsored the second fewest number of cases among CCLOs, but did so with other organizations almost half of the time (including several times with ADF).¹³ But it is in amicus curiae participation where CLRF stands out as the most collaborative—and therefore most central—CCLO in this network. Consider that CLRF filed 48 amicus briefs (second among CCLOs), but filed with a much greater number of partners than any other CCLO. Furthermore, in Figure 4.3 CLRF is densely connected to other nodes in ways unseen in other areas of the network; this is true for Figure 4.4 as well. The groups connected to CLRF, meanwhile, tend to be only connected to CLRF and not to other CCLOs, speaking to CLRF's unique position in this network and its work with groups not tied to other CCLOs. Thus, CLRF facilitates a unique constituency in this network of legal advocacy, speaking to the group's identity and niche among other CCLOs.

¹³ Figures 3.1 and 3.2 do not accurately depict this kind of collaborative effort, highlighting the potential problems with relying on network graphs to draw conclusions about a network.

Along with ADF and the ACLJ, LC is arguably the most visible and active CCLO in the industry of Christian conservative legal advocacy. But in these two conceptions of the CCLO network, LC appears to be less central to this industry than its reputation may suggest. Consider LC's case sponsorship behavior: while LC sponsored 92 cases at the state and federal levels, in only 10 of these cases did LC work with another group; this ratio of collaboration was the lowest of any CCLO. Its collaborative behavior in case sponsorship is more comparable to groups like TMLC and CLRF, organizations that have sponsored noticeably fewer cases. And in terms of amicus curiae participation, only seven of LC's 30 briefs were filed with one group or more. And in looking more closely at the groups with which LC actually filed, there is not much variation among them: Liberty University and WallBuilders are two of LC's most common amicus partners, appearing on the vast majority of LC's co-filed briefs. If ADF is like CLRF in this legal advocacy network, then LC is most like the ACLJ: very active relative to other groups, but nowhere near as collaborative or relational in its advocacy work.

Given that NLF is the smallest CCLO in terms of resources (both financial and personnel), it is not surprising that NLF is one of the least active CCLOs in the two conceptions of the CCLO network outlined in this chapter. For being founded in 1985, NLF has been remarkably quiet relative to other CCLOs founded much more recently. I found only 15 unique cases sponsored by NLF, and of these cases only four of them were cosponsored with another group. Figure 4.1 highlights NLF's lack of connectivity to other groups in the CCLO network, as NLF connects to only three nodes – two of them other CCLOs. In terms of amicus curiae participation, the story is similar: NLF is relatively inactive in amicus curiae filings, and when it has filed a brief, it is more likely to file alone. Thus, in addition to being one of the oldest

CCLOs in this study, NLF is also one of the least influential relative to other CCLOs. In terms of organizational relations, therefore,

The TMLC, being the newest CCLO in this study, has had some catching up to do in these two conceptions of the Christian legal advocacy network. This analysis suggests that the TMLC has been very active in case sponsorship, sponsoring 49 cases (and, of those, cosponsoring 16). Furthermore, the TMLC has sponsored cases with many CCLOs and several non-CCLOs, as depicted in the network graph in Figure 4.2. It appears that active litigation is a consistent endeavor of the TMLC, and that collaboration is a common occurrence with this group. However, the TMLC clearly exudes a much less influential and collaborative role in amicus curiae participation: the group filed just 13 briefs before the Supreme Court since its establishment. What is more, in this activity it has tended to act alone, ranking low among other CCLOs in terms of collaboration with other groups in filing amicus curiae briefs. Thus, two people would draw very different conclusions about the TMLC's centrality and influence in the CCLO network if they were to look at the different iterations of this network.

In addition to the CCLOs analyzed above, other organizations (including the NAE, FRC, and FF) emerged as actively involved in the CCLO network (and especially in the amicus curiae network). These groups took on the role of mediating groups, or organizations that connected otherwise unconnected nodes in the network, including connecting otherwise unconnected CCLOs. An example of this can be seen with FF, which connected CLRF and ACLJ in Figure 4.4; that is, both groups collaborated with FF on amicus briefs at some point, but did not collaborate with each other. And in some instances, non-CCLOs were even more influential in these conceptions of legal advocacy than some CCLOs. This seemingly simple finding is suggestive of a larger implication for Christian conservative legal advocacy: while CCLOs are

critical to this advocacy industry, they are not the only groups capable of acting in this unique industry.

CONCEPTUAL DEVELOPMENT

In addition to highlighting the most central (and therefore most influential) CCLOs in these conceptions of the Christian legal advocacy network, the above analysis also contributes to this project's ongoing development of three key concepts important to CCLO activity and behavior. Specifically, the data analyzed in this chapter and the resulting network graphs produced using SNA suggests that each CCLO displays substantive variation across each concept introduced in chapter two. It is therefore worth noting what this chapter's analysis can tell us about these three concepts, if only to introduce them once more and go on with the development that will continue throughout this dissertation.

Organizational Structure

The reader will recall that organizational structure, as a concept, alludes to not only the structure of a legal group (in terms of staff attorneys versus affiliate attorneys and hierarchical organization), but also to the group's resources; I focus my attention in this chapter on this latter component. In these two conceptions of the CCLO network we see how resources can influence the extent to which a CCLO can be involved in Christian legal advocacy. Focusing solely on material resources, it is no accident that the most active CCLOs across both networks were also the best funded (ADF and the ACLJ). Similarly, it is not a coincidence that the CCLO with the least material resources (NLF) was also the least involved in both the case sponsorship network and the amicus curiae network. Whatever the reasons for CCLO involvement, from a strictly

financial perspective there appears to be a strong correlation between more resources and more activity in the CCLO network, at least in terms of case sponsorship and amicus curiae filings.

What, then, of CLRF? Despite having one of the smallest budgets of any CCLO it still maintains a healthy presence in the CCLO network, particularly in terms of amicus curiae participation. It looks as if CLRF dedicates the vast majority of its efforts and resources to amicus curiae advocacy instead of direct litigation. The size of the organization may play a role here, as fewer attorneys mean less ability to litigate. Additionally, while the cost of filing amicus briefs at the Supreme Court is high (Caldeira and Wright 1990), the cost of litigation is much higher; this may explain why CLRF is more involved in one area of advocacy than another, and it might have less to do with strategy and more to do with understanding limits of the organization. When analyzing legal organizations engaging in public interest advocacy, resources is a factor that must be kept in mind

Organizational Relations

In this chapter we were able to identify not only which CCLOs were most central to their network, but also the various constituencies and organizational relations taking shape throughout this network. It is in exploring these network constituencies where the value of network graphs is especially high, in terms of offering a visual answer to the question, “Who is friends with whom?” I suggest that a CCLO’s constituency is indicative and suggestive of that CCLO’s organizational identity. To put it another way, one can tell a great deal about a legal advocacy group when looking at the company it keeps.

Take, for example, the ACLJ. While filing most of its amicus briefs independent of other groups, when it did choose to file with another organization its most frequent partner was, in fact, Congress (more accurately, conservative members of the House of Representatives). This

suggests that the ACLJ is, more than any other CCLO, directly focused on institutional conservative policy making; a similar conclusion can be drawn of the TMLC when considering its ties to the NRWLDF, a politically conservative legal group focused on anti-union litigation.¹⁴

On the other hand, consider CLRF's dense coalition in amicus curiae participation. This cluster includes many non-CCLO actors within the broader Christian community, including ecumenical groups like the NAE and National Council of Churches, as well as denominational groups like the Lutheran Church-Missouri Synod. But this constituency also includes decidedly non-Christian organizations, ranging from the American Jewish Committee and Unitarian Universalist Association to People for the American Way and Americans United for the Separation of Church and State. Indeed, according to Kim Colby, senior counsel for CLRF, "We will work with liberal groups on religious liberty issues. We are willing to work with the other side" (Interview, Colby). Thus, despite sharing broader goals, CCLOs (for strategic or realistic reasons) clearly act differently in pursuit of these goals, and organizational relations help explain these differences.

In addition to offering a better understanding of key groups involved in Christian legal advocacy in the United States (as well as their places in the broader network of Christian legal activism), this chapter suggests that legal advocacy and mobilization scholars should pay attention to the broader context in which legal groups are operating. That is to say, it is wise to embrace a network perspective when analyzing the activities of a group or series of public interest legal groups. Such a perspective can yield valuable contributions to important conversations about the role of group-based politics in legal mobilization. Additionally, such an approach can shed light on various constituencies and coalitions taking shape in different legal

¹⁴ The TMLC and the NRWLDF cosponsored a case in federal court, defending an individual objecting to paying union dues on religious grounds (*Reed v. Int'l Union, UAW*).

mobilization communities, and can begin to consider the implications of these coalitions on the legal mobilization efforts of the industry as a whole.

This chapter highlights specific constituencies within the broader network of Christian legal advocacy, where CCLOs most comfortably find their home in the realm of legal mobilization. Additionally, though, this speaks to the organizational identity of the CCLOs (indeed, of legal groups in general) as part of their constituencies: some are more explicitly political (the ACLJ and the TMLC), while others are more open to varying perspectives (CLRF). In later chapters I develop this concept in greater detail, but the analysis in this chapter helps lay the foundation for future analysis.

Conclusion

While each CCLO sponsors cases in state and federal court and files *amicus curiae* briefs before the Supreme Court, CCLOs exhibit varying degrees of influence (in terms of network positioning and collaboration with other actors appearing in this network) in these two conceptions of the Christian legal advocacy network. Thus, despite consistently participating in various arenas of legal advocacy on behalf of the Christian Right, the six CCLOs explored in this dissertation are not equally influential as social movement organizations in their work on behalf of their shared, broader movement. Organizational resources and relations help explain this variation among CCLOs, who, while sharing many of the same concerns of Christian conservatives, act decidedly differently in two important methods of legal advocacy.

Because of this, it is safe to say that the CCLO industry is not as homogenous as it may appear at first glance, at least in terms of participation and subsequent influence in these arenas of legal advocacy. Despite being involved in the same areas of law and legal advocacy, CCLOs clearly occupy different areas of their shared network and identify with different constituencies

within this network and community of legal advocacy. This resulting divergence is not unique to this context, though, as it can also be seen in the groups' strategies, tactics, and specific approaches to many shared issues, as the rest of this dissertation will illustrate.

Additionally, non-COLO actors can be seen as key participants in Christian conservative legal advocacy, especially in terms of *amicus curiae* participation before the Supreme Court. These organizations, while not identifying as primarily legal organizations or relying on legal mobilization as a central organizational activity, are still actively engaged in some forms of legal advocacy on behalf of Christian conservatives. This suggests that the arena of Christian conservative legal advocacy, while dominated by COLOs and their work, does not entirely exclude other, non-legal groups from its community.

With the *structure* of the COLO industry better understood in terms of interaction among COLOs, what of the *substance* of this interaction among distinct social movement organizations? In the next chapter I turn to the organizations for answers, using interviews with movement attorneys—both staff attorneys and affiliated lawyers—to inquire about the nature of relationships, competition, and collaboration among Christian conservative legal organizations. In this way I hope to continue to shed light on the importance of organizational identity (and especially organizational relations) in explaining legal mobilization in religious movements, especially concerning how groups interact with one another in the same movement and industry.

CHAPTER FIVE

ORGANIZATIONAL RELATIONS, PART II: INTERACTION, COOPERATION, AND COMPETITION AMONG CCLOs

“In general, principles of competition apply to us. And where there is competition, there is excellence.”

--- Steven Fitschen

President, National Legal Foundation

Alliance Defending Freedom and Liberty Counsel disagreeing on the scope and reach of a California marriage initiative. The Center for Law and Religious Freedom and the Thomas More Law Center diverging in their views on religious freedom and religious establishment. The American Center for Law and Justice strongly supporting President Bush’s nomination of Harriet Miers to the U.S. Supreme Court, and Liberty Counsel strongly opposing her. As these three examples illustrate and as chapter three made abundantly clear, despite sharing much of the same broader agenda, Christian conservative legal organizations are not always in sync with one another and in agreement on the issues of the day. Similarly, as chapter four showed, despite being in the same industry and occupying the same broader network of legal mobilization, CCLOs do not share the same advocacy partners nor do they regularly work together on behalf of their broadly shared agendas.

Thus far this study has defined and described the CCLO industry, explored the structure of this industry conceptualized in varying ways, and illustrated the non-monolithic status of the CCLO industry. Specifically, the previous chapter revealed the variable nature of Christian legal advocacy on behalf of a similar and broadly shared agenda: despite sharing many policy goals and causes, CCLOs vary in their pursuits of these causes as well as in their adoption of unique causes and issues. But this conclusion leads to an important question: how do CCLOs, acting in

the same movement industry, interact with other Christian legal groups in their industry? Put broadly, how does variation among movement organizations affect the efforts of and interaction among these organizations?

In this chapter I explore the effects of variation on the atmosphere of Christian legal advocacy in the United States, looking to the attorneys at the heart of such advocacy for explanations. I am most interested in determining how the distinctions and differences among CCLOs affect the dynamics among rival yet like-minded social movement organizations. Relying mostly on interview data with the attorneys involved in Christian legal advocacy, I find that while most CCLO attorneys acknowledge the rifts and even divisions present among CCLOs, these individuals perceive these fissures to be in the best interest of the shared industry of focused legal advocacy for the Christian Right. These results, while limited to the realm of Christian legal advocacy, still suggest implications for competing organizations in other prominent movements in American politics. And as was the case in the previous chapters, my findings in this chapter continue to contribute to the development of the concepts introduced earlier in this dissertation, concepts which play major roles in both the structure and nature of the CCLO industry and in the nature of organized legal mobilization and advocacy more broadly.

Prior Research

Past research has focused on divisions in the organizations of various American social movements, and this research informs my study's focus on CCLOs and legal advocacy for the Christian Right. Zald and Ash (1966) argue that alliances among competing movement organizations in the same industry are possible (and, in some cases, to be expected), but insist that such alliances are uneasy and that conflict among these groups is certainly possible. Studies on one of the more influential movements in American history—the civil rights movement of the

twentieth century—suggests that organizations and their elite lawyers had varying perspectives on how to best advance and achieve their goals (Tushnet 1987; Wasby 1995). Accounts of the pro-choice women’s movement and recent developments in the gay rights movement have also pointed to a lack of uniformity among movement organizations, suggesting that even movements competing against established opposition and countermovements do not act in a uniform fashion in support of their goals (Staggenborg 1991; Bronner 5 June 2012). As the previous chapters of this dissertation showed, this is also the case for CCLOs.

Past research on Christian legal advocacy has paid significant attention to how Christian legal groups are associated with their broader religious movement, the Christian Right (Hacker 2005; den Dulk 2006). Not surprisingly, many CCLOs did in fact at least take their initial shape with support and backing from established and stable elements of the broader movement, from Pat Robertson’s involvement with NLF and the ACLJ to Jerry Falwell’s endorsement of LC to widespread and coordinated Evangelical support for ADF. Considering the occasional rivalries and schisms (some theologically driven, others personally driven) that have emerged among Christian conservative elites over the past several decades, it would follow that CCLOs are not immune from rivalries, divisions, and schisms manifesting in their legal work.

Research on the legal profession merits attention, especially since this chapter’s methods are dependent on interviews with CCLO attorneys. In studying the legal profession political scientists and sociolegal scholars have raised serious questions, but perhaps none apply more to this study than the distinction between traditional and cause lawyers. As introduced in chapter two, traditional lawyers place service to the client above any ideological goals they may have (Scheingold 1974; Miller 1995; Scheingold and Sarat 2004). Lawyers embracing a traditional

conception of the legal profession do so to keep the profession “governed by the morality dictated by the profession and not from outside the profession” (Pearce and Uelmen 2004, 143).

Cause lawyers tend to abandon this traditional view of the legal profession in favor of one that places the convictions of the lawyer at the center of his or her work as a legal professional. To do otherwise, according to this understanding, would separate the lawyer from his or her identity as both a lawyer and as a person. Because these lawyers’ identities and ideologies illuminate their work, they have “something to believe in” and are committed to their work on behalf of their particular cause (Scheingold and Sarat 2004). CCLOs and legal groups like them give cause lawyers attorneys spaces to live their vocational and professional callings; indeed, without organizations, there can be no movement at all. And as previous research has shown, CCLOs and their attorneys fit the model of cause lawyering to a tee (Paik et al. 2007; Den Dulk 2008; Southworth 2008).

Additionally, previous research has considered the idea that religious cause lawyers (including those working for and on behalf of CCLOs) are unique in the cause lawyering community. These studies found that religious cause lawyering is—unsurprisingly—motivated by different considerations than the typical public interest lawyer, whose motivations mostly stem from ideology or a desire to use the legal profession to advance goals. Instead, religious cause lawyering is unique due to the role of religious beliefs in shaping professional motivations and identities: “The religious lawyering movement focuses...more on ways in which religious values and perspectives may provide a completely different structural framework for an approach to professional life” (Pearce and Uelmen 2004, 140-141).

Another study highlighted the unique identity of Christian cause lawyers, suggesting that these lawyers are better labeled *purposive* lawyers, given the underlying reason and explanation

for their call to engage in cause lawyering (den Dulk 2008). For Christian cause lawyers, then, faith informs and motivates the range of professional activity; the motivation for these cause lawyers is not merely ideological, but eternal. In the present study, CCLOs are best understood as providing a space for purposive lawyers to embrace and act on their professional callings. The organizational identities of these CCLOs, then, are of paramount importance in understanding not only the lawyers, but also the CCLOs themselves and the broader nature of Christian legal advocacy in the United States.

Methods

In this chapter I rely on interviews with CCLO attorneys to answer questions about how the variation and diversity among CCLOs affects the dynamics and atmosphere among these groups. But these interviews serve another purpose. I interviewed lawyers affiliated with CCLOs not only to gain their insight into the dynamics among CCLOs, but also to confirm certain aspects of my research. The interviews in my study, while broadly interpretive in nature, skew more toward confirmatory in actual design and purpose. That is, I am interested less in how CCLO attorneys contest and create meaning (in litigation and otherwise), and am more interested in gaining leverage on findings discovered in the content analysis stage of my research, in addition to gleaning information on the effects of the diverse nature of Christian legal advocacy on interactions among CCLOs.

Interviewing CCLO attorneys most naturally falls under the umbrella of *elite interviews* (Lindsay 2007; Stephens 2007; Harvey 2011). Interviewing elites, no matter their background, requires special consideration and preparation from the interviewer. For example, building rapport and gaining the trust and respect of elite participants is important to generate the best kind of qualitative data (Stephens 2007; Harvey 2011). In order to do this, ample time must be

given to “doing one’s homework” in advance of the interview, should the participant decide to unofficially “quiz” the interviewer on his or her level of knowledge, and therefore seriousness (Harvey 2011). I therefore made sure to do ample background research not only on the interviewee, but also on the CCLO with which they were primarily affiliated; conducting interviews after engaging in the other data collection efforts for this dissertation helped to facilitate such an immersion process.

Gray and Lowery’s (1996) research on state lobbying interests is worthy of discussion in the context of this chapter’s methods. While acknowledging these interest groups are rivals inasmuch as they compete for resources, the authors find that these organizations tend to cooperate with other groups sharing policy goals; though anecdotal evidence has thus far pointed to CCLOs following a similar pattern, this chapter addresses the question directly. Apart from their empirical focus, the authors’ use of interviews proved especially useful as I considered the best way to get at the answers to the questions inherent to this project:

Analyses of populations of lobbying organizations can be highly abstract at times, far removed from the real world of lobbying and being lobbied. Talking to lobbyists, we hope, will insure that our speculations and conclusions do not stray too far from that reality (Gray and Lowery 1996, 9).

In the same way, I interviewed lawyers affiliated with CCLOs not only to gain their insight into the dynamics among CCLOs, but also to confirm certain aspects of research on this topic. The interviews in my study, therefore, skew more toward confirmatory in design and purpose than outright interpretive.

Regardless of epistemological or methodological orientation, there will always be tradeoffs involved when developing a research design (Gerring 2001). The biggest concern in conducting the interviews for this study was determining the venue in which to conduct them. Conducting in-person (or face-to-face) interviews provides real benefits to the interview,

including a hastening of rapport-building and the ability of the interviewer to read physical cues and body language (Sturges and Hanrahan 2004). But in almost all cases, my interviews were conducted over the telephone. This was due primarily to the cost of conducting in-person interviews, as well as the time constraints such travel would have put on me, the interviewer; such factors have been acknowledged in prior literature on interviewing (Sturges and Hanrahan 2004; Stephens 2007). There are also positives of conducting phone interviews as opposed to face-to-face interviews, such as when note-taking is vital to the interviewer and when scheduling conflicts arise, particularly for elite participants (Sturges and Hanrahan 2004; Stephens 2007; Harvey 2011). Given that CCLOs and their attorneys are located in various regions of the United States, and since note taking was an integral component of my data collection efforts (see the following paragraph), telephone interviews proved to be the most efficient option for carrying out this research.

Another consideration in this study involved deciding whether to audio record the interviews. I chose not to record them, relying on note-taking and occasional follow-up communications to clarify certain thoughts or quotes. While recording interviews does have its benefits, including providing the interviewer with a verbatim transcript and the ability to pay less attention to note-taking and more attention to the flow and structure of the interview, it does have its pitfalls. The biggest problem with recording interviews is the presence of the recording device itself, which may lead to reticence among respondents (Peabody et al. 1990). This is true in previous research interviewing elites from industries where confidentiality is essential, like pharmaceuticals and law (Harvey 2011). Such discomfort may influence the flow and substance of the interview. Thus, I decided to rely solely on note-taking and not record any interview, following Harvey's (2011) observation that, for some research projects, "the benefit of having a

verbatim script of the interview [does] not outweigh the cost of losing potentially important off-the-record information” (437). And since most of the interviews were conducted over the telephone, any negative effects of note-taking (in terms of inhibiting the flow of face-to-face interviews) were inconsequential.

I adopted a semistructured approach to these interviews. Such an approach allows for the specific questions necessary for staying on topic and potentially generating future, testable hypotheses, but keeps these questions open-ended enough to allow for “detail, depth, and an insider’s perspective” (Leech 2002, 665). I adopted open-ended questions in this semistructured approach because not only do such questions leave room for the participant to offer more detail and depth in his or her answers, but also because, “Elites especially – but other highly educated people as well – do not like being put in the straitjacket of close-ended questions. They prefer to articulate their views, explaining why they think what they think” (Aberbach and Rockman 2002, 674). Given the answers I seek for this chapter, a semistructured approach incorporating mostly open-ended questions makes the most sense for these interviews. I have included, in the Appendix to this dissertation, the interview protocol used for these interviews.

I constructed my sample of attorneys to interview using two primary methods. First, I engaged in theoretical (or purposive) sampling of prospective attorneys to contact. Such a method falls under the auspices of strategic sampling, as opposed to random sampling. “Theoretical sampling is concerned with constructing a sample which is meaningful theoretically and empirically, because it builds in certain circumstances or criteria which help to develop and test your theory or your argument” (Mason 2002, 124). Any kind of sampling not exclusively focused on CLO attorneys as research participants would have done disservice to the questions I address and the answers I seek. According to Mason (2002), using theoretical sampling also

demands that my specific sampling strategy (in terms of which CCLO attorneys to solicit) be dynamic, taking into account the analysis of my data as it develops:

If your sampling strategy is to be informed by theory, and in turn help to develop your theory and explanation, this implies that you do not have to decided upon it once and for all at the beginning, because at that point in your research you may not be in the best position to make such precise decisions” (138).

Thus, it is no surprise that my list of prospective participants ended up looking different from my list of actual participants.

A related and additional point: Wasby’s (1995) study of racial litigation correctly distinguishes between cooperating attorneys and staff attorneys, noting that the former are only loosely affiliated with a legal organization while the latter are employed directly by the organization. Given that CCLOs share these kinds of professional structures, I borrow Wasby’s framework to distinguish between different classes of CCLO attorneys. These two kinds of attorneys brought different things to the table, in terms of information and experience. Staff attorneys had the benefit of being involved with the organization’s planning and strategic development, providing an in-depth look at how his or her respective CCLO operates. Affiliate attorneys, meanwhile, while not being able to comment on the internal characteristics of the group(s) with which he or she was affiliated, were able to comment on the broader realm of Christian conservative legal advocacy and, since many affiliated lawyers had worked with more than one CCLO over time, the relationships and dynamics among these groups. Thus, interviewing staff and affiliated lawyers proved to be a balanced and comprehensive strategy for answering the questions posed in this dissertation.

In addition to purposively sampling CCLO attorneys to interview, I also engaged in snowball sampling to bolster the number of interviews I eventually conducted. This involved asking participants if they knew of two or three people who would be willing to speak with me,

and then attempting to get in touch with them based on that recommendation. Snowball sampling has been shown to be an effective method of identifying potential participants, including in other studies focused on interviewing elites from the Evangelical (Lindsay 2007) and conservative legal (Southworth 2008) communities, two communities at the nexus of my study. And while my process was not nearly as extensive as theirs, snowball sampling proved to be a useful (if limited) tool in identifying potential participants and gaining an initial foot in the door.

In soliciting interviews I consistently made initial contact in the form of an e-mail, sometimes having to search online court records for valid and current e-mail addresses. Since most interviews took place over the telephone, it felt appropriate to reserve telephone contact for the actual interview and to do any preparatory scheduling via e-mail. Upon agreeing to participate, I then sent a follow-up email containing a participation consent form. It was at this time that a time was set to conduct the interview. Per the terms of the consent form, no recording device was used; I only took notes of the interview. After completion of the interview I immediately typed up my notes, including a reflexive analysis of my impressions of the interview with each typed summary. I then forwarded any direct quotes I had recorded to the participant for his or her verification or comments; again, this was a term of the consent form. Each typed summary was then read in conjunction with existing interviews, as I attempted to identify recurring themes, narratives, and points across interviews. All materials and documents pertaining to my solicitation of interviews can be found in the Appendix to this dissertation.

INTERVIEWS: IN THEORY VS. IN PRACTICE

Previous research involving elite interviews, especially studies interviewing attorneys in conservative (Southworth 2008) and Christian (den Dulk 2001; Hacker 2005) legal advocacy, motivated the direction and scope of this dissertation. Before sending one interview request to a

CALO staff attorney or affiliated attorney, my thoughts on the matter were simple: given that previous studies so successfully made use of interviews with these lawyers, the problem for me was going to be limiting the number of interviews in my study, as opposed to finding enough willing attorneys to speak with me. In theory (and considering previous literature incorporating interviews with lawyers and religious activists), I would not have encountered any resistance on the part of CALO attorneys.

In practice, however, such a mentality proved to be naïve and lacking foresight. As I began the interview phase of this research, I quickly realized how difficult it would be to acquire interviews with lawyers in the CALO industry, especially those directly employed by a CALO (scheduling interviews with attorneys merely affiliated with a CALO proved to be a far easier endeavor, given the volunteer and pro bono nature of their affiliations). This realization ended up affecting the structure of this chapter, forcing me to portray the information I was able to obtain via interviews in the most intellectually rigorous and honest ways.

There are a myriad of possible reasons for why I had difficulty in identifying lawyers willing to participate in this research project. One reason comes from a lawyer I was able to interview, who requested that he be able to review the direct quotes I included in this dissertation because, in his words, “You would be surprised how often I and others I know have been misquoted” (Interview, Fitschen). The attorneys with whom I was able to speak echoed this concern, suggesting that those in the media (though not necessarily academia) have been less than fully accurate in their reporting on CALOs and Christian legal advocacy, which has caused problems for these groups before.

This hints at a larger problem with interviewing lawyers from groups involved in this kind of advocacy: a CCLO's fear of alienating other g with whom a group may frequently collaborate. When scheduling an interview and discussing its parameters, one attorney said,

I am walking a line between wanting to help you have an accurate product while at the same time maintaining good relationships with my co-laborers. In almost every media interview I have ever had, whether the interviewer is friendly or not, the quotes and attributions have had at least one inaccuracy. I really value my relationships with other groups (Interview, Colby).

Such a concern, paired with my difficulty in obtaining interviews with a variety of CCLOs, suggests that these attorneys are wary of speaking to outside observers about the internal composition and operation of their organization. As such, getting a foot in the door of these organizations proved to be far more difficult than I had imagined it would have been.

The existence of press offices or media relations personnel may also explain the restrictive access to CCLO attorneys. I cannot imagine that it is a coincidence that I was able to get interviews with the senior attorneys and directors of the only two CCLOs (CLRF and NLF) not employing a media relations division. Greg Scott, Senior Director of Media Relations for ADF, said, "We're very deliberate about things here. It's hard to get to [the lawyers] without going to us" (Interview, Scott). Without the cooperation of people in a CCLO's press office, access to its attorneys proved to be a nearly impossible effort.

There are three other reasons why I might have had difficulty gaining access to CCLOs for interviews. First, these groups and their lawyers may simply not have had the time to speak with me during the period I was soliciting interviews. For example, one lawyer at ADF I had planned to interview became extremely busy late in 2012 and into 2013, as the Supreme Court granted certiorari to a case on which he and his team has been working for years; for him, speaking with me likely took a backseat to preparing his briefs and planning for oral argument.

Second, in the midst of my research one CCLO had to deal with the departure of a longtime attorney embroiled in a personal crisis; this organization may have felt the need to close up shop to unknown quantities, including those in the midst of their dissertation research projects. And third, some groups simply may not have seen me as someone with whom they wanted to speak. According to the editors of a collection of scholars' interview experiences, "Who you are and how you present yourself influence access" (Feldman et al. 2003, x). These writers go on to speak of the importance of identity—both scholarly and personal—in gaining access for interviews. Therefore, my identity and personal background, while no doubt helpful in securing interviews with some attorneys, may not have been sufficiently persuasive in my outreach to others. Whatever the reason, interviews with staff attorneys turned generally turned out to be harder to come by than I had originally imagined.

At the end of the day, I was able to speak with staff attorneys at four CCLOs: ADF, CLRF, LC, and NLF. Despite my best efforts, I was not able to establish contact with any staff attorneys at the ACLJ or the TMLC.¹ The findings from my interviews, therefore, must be considered with this lack of universal access in mind. Ultimately, I sent 51 interview requests to individuals involved in the CCLO industry, and got responses of some kind from 28 people (giving me an initial response rate of 55 percent). Seven of these responses indicated they were unwilling to participate, which means I was able to interview 21 actors from the CCLO industry (giving me an actual response rate of 42 percent). These 21 interviews provided the pool from which I was able to draw the findings and conclusions presented in the pages that follow.

Results

¹ I was able to speak with a former senior counsel at the ACLJ (Larry Crain), but this was the closest I would get to that organization in terms of speaking to a staff attorney. My contact with the TMLC was limited to affiliated attorneys.

I ended up conducting interviews with 21 legal professionals, nine of whom worked (or have recently worked) as staff attorneys, legal counsel, or in some other official capacity for one or more CCLOs. This means I spoke with 12 pro bono lawyers who have dedicated their time and efforts to litigating cases important to CCLOs, and who have been affiliated in an unofficial capacity with one or more CCLOs. In interviewing these attorneys (and, in one case, the media director for ADF), I was interested their answers to several questions, including the prevalence of competition among CCLOs over salient and high-profile cases, the existence or history of “turf wars” among the groups, and the willingness of the organizations to collaborate and cooperate from time to time. Ultimately, in asking these questions I aimed to address the role of organizational variation in the dynamics among CCLOs.

Upon completing each interview, I typed up my handwritten notes and analyzed my comments, highlighting direct quotes, main points, and ties to already-completed interviews. My typed notes became host to new sets of notes, as I gradually began to identify recurring themes that addressed the questions central to my inquiry. Eventually, this process yielded four prominent themes and narratives appearing across these interviews. It is to these themes I now turn.

THEME 1: “Turf wars” do exist, but are rare

In any arena of advocacy where opportunities and resources are necessarily finite, there exists the possibility for head-to-head conflict and battles over domains of advocacy. This is inevitably true among public interest legal groups. “Turf wars,” or competition and conflict over specific cases or issues, pose real problems for organizations occupying the same industry of activism on behalf of a shared social movement. Limited numbers of high-profile cases and causes (by which an organization could be expected to generate publicity and attempt to

fundraise) could lead to schisms among CCLOs, which would negatively affect the dynamics among these groups, including their propensities to collaborate and share resources with one another in pursuit of a larger goal (Zald and Ash 1966).

Most CCLOs acknowledge that there have been turf wars in the Christian legal advocacy industry at times. One did say, “If somebody ends up with a case, [other CCLOs] respect the other group. They don’t poach cases” (Interview, Becker). But for the most part, CCLO attorneys acknowledged the existence of turf wars, while maintaining that these conflicts are either rare or simply part of the movement’s past. Steven Fitschen, President of NLF, said, “I have seen my share of turf wars over the years,” adding, “We all want the good case, the juicy case, the test case” (Interview, Fitschen). Another attorney stated, “I’m not naïve; I know there have been turf battles” (Interview, Mylar). One affiliated attorney remembered conflict between ADF and LC over same-sex marriage in 2004, akin to the later issues between these groups over Proposition 8 (Interview, Ford). A former ACLJ attorney said, “I’ve seen some of that [turf protection] over time the last 30 years.... There have been instances of turf protection” (Interview, Crain). And the consequences of such turf wars can be negative, according to Timothy Tracey, former staff attorney with CLRF and ADF: “There is some extent of territorialism among some groups, and some groups are worse than others.... In the long run, it’s not a good thing” (Interview, Tracey).

But despite acknowledging the history of turf battles among CCLOs over the most salient cases and causes, movement attorneys tend to profess that these turf wars are, for the most part, rare. “I’ve definitely seen that with some groups,” said Mat Staver, LC’s founder and chairman, before adding, “Hopefully it’s water under the bridge” (Interview, Staver). Kim Colby, senior counsel for CLRF, suggested that CCLOs want other groups to succeed, even if it does not come away with the high-profile case. “I think the movement is maturing,” she said (Interview, Colby).

Larry Crain, the former ACLJ attorney, echoed Colby: “I don’t see the jealousy I once did when the groups were new. I think we’ve matured beyond that in a lot of ways” (Interview, Crain).

Multiple attorneys also suggested that turf wars are unnecessary due to the volume of work available to CCLOs. Erik Stanley, senior legal counsel for ADF, said, “There has been some of that in the past, and I’m sure there’s some of that now. But I view those as minor, more helpful conversations.... There’s more than enough work to go around” (Interview, Stanley).

Echoed Crain: “I like to think there’s enough work to go around” (Interview, Crain). And Fitschen said that, regardless of turf wars, the norm is still collegiality: “Despite the occasional turf wars, there is consistent and deliberate coordination” (Interview, Fitschen). Thus, while CCLO attorneys generally acknowledged the existence of turf wars among groups, these outright conflicts are described as rare and not consistent with the contemporary image and organization of Christian conservative legal advocacy, particularly given the volume of cases and causes in need of advocacy.

THEME 2: Competition does exist, but is positive

Given the occasional (though rare) turf wars among CCLOs, it is no surprise that competition exists in the arena of Christian legal advocacy. Again, due to the finite resources and opportunities available to public interest legal groups, competition among these groups is almost guaranteed regardless of any inherent competitive tendencies of these groups. But while competition does have the potential to develop into widespread turf wars and battles over specific cases, the vast majority of attorneys I spoke with suggested that the competition among rival CCLOs actually has positive and beneficial implications for CCLO advocacy overall. In short, as iron sharpens iron, the work of one organization ends up sharpening and improving the work of others.

Few attorneys I spoke with downright denied the existence of competition among CCLOs. One said, “I don’t see [other CCLOs] competing for resources. We have our own constituency and seek to expand it. We don’t see them as competitors” (Interview, Staver). Another said, “They’re not competitors; they are collaborators” (Interview, Becker). But the fact is that most attorneys interviewed did acknowledge competition to be a natural byproduct of CCLO proliferation. “As long as we have people involved in ministries, there’s going to be competition for the resources,” said Steve Taylor, a LC-allied attorney (Interview, Taylor). Matt Bowman, a staff attorney for ADF, pointed to human nature’s influence on intergroup disagreements and competition: “I think in any human effort people will have different ideas about strategies and tactics” (Interview, Bowman). And Jim Bopp, discussing the necessary consequences of a movement and industry being influential, said, “A movement that’s going to make an impact is going to be larger, and it’s going to be varied” (Interview, Bopp). From this perspective, variation and competition among CCLOs appear to be inextricably linked.

But this competition, however prevalent, is normally understood to be positive for CCLOs. “I think there is a sense that some of the tension between Liberty Counsel and ADF and the ACLJ and ADF stems from that initial decision,” said Tracey of ADF’s decision to begin actively litigating eight years after its founding. However, he concluded, “On the whole, I think it’s probably been a good thing for the movement” (Interview, Tracey). Three affiliated attorneys agreed: “I’m aware of divisions, but I have also seen the benefit of having many groups,” said Frank Mylar (Interview, Mylar). “I think there needs to be a diversity of approaches,” said Leah Farish (Interview, Farish). And Sharee Langenstein suggested, “It takes creativity; you need creative minds” (Interview, Langenstein). One lawyer I spoke with² warned that this competition could be problematic in certain circumstances: “When there is no desire to assist in furthering the

² This attorney asked that I not attribute certain quotes directly to him or her.

information base to assist others in furthering the cause, this is unhealthy competition. When this unhealthy competition exists, you will also find that schisms do occur” (Interview, anonymous). But according to most CCLO lawyers, competition breeds creativity and a diversity of approaches among public interest legal organizations. To these lawyers, both elements yield positive results for CCLOs’ legal advocacy endeavors.

CCLO attorneys regularly embraced a free market perspective when suggesting that the positives of competition outweighed certain negatives, like turf wars. “In general, principles of competition apply to us,” said Fitschen. “And where there is competition, there is excellence” (Interview, Fitschen). Colby echoed this statement, saying, “You want competition so the groups work harder, since we’re all competing in some sense” (Interview, Colby). Colby later added that this competition leads to refinement of CCLO work, saying, “We refine each other’s ideas” (Interview, Colby). The notion that competition leads to refinement was a recurring theme when speaking to CCLO attorneys, and several of them invoked the Biblical reference to the idea (Proverbs 27:17). Referring to this competition, Stanley said, “As it says in Proverbs, ‘As iron sharpens iron, one man sharpens another’” (Interview, Stanley). Kelly Ford, an affiliated attorney with ADF, agreed: “There needs to be a multiplicity of organizations. These groups can sharpen each other, and friendly rivalries point out each other’s shortcomings. It’s a good thing” (Interview, Ford). Fitschen also pointed to this passage in his discussion of competition among Christian legal groups (Interview, Fitschen). Thus, as iron sharpens iron, competing CCLOs can sharpen each other as they pursue similar agendas on behalf of the Christian Right in the legal realm.

Perhaps the most vocal disagreements among CCLOs occur over the issue of abortion. Some organizations have vocally backed so-called personhood initiatives in various states, while

others have opposed them (Eckholm 25 October 2011). And the attorneys I interviewed did express different perspectives on the strategy, with one calling the approach “foolish” (Interview, Bopp) and another saying, “The opportunity [to reverse *Roe*] is there. If you try and fail to reverse *Roe*, how can it get any worse than it is now?” (Interview, Staver). But even on this topic, there is room for grace among competitors and disagreeing parties. “On the political side of things, I sometimes scratch my head at the personhood initiatives,” said ADF-affiliated attorney Michael Millen, adding, “I do wonder about collateral consequences.” He confessed, though, “I certainly wouldn’t pass judgment on those embracing strategies like the personhood initiatives, and I wish them well” (Interview, Millen). One can see the affable nature of CCLO competition and diversity, even in the most contentious of issue areas.

The competition that exists among CCLOs, mostly due to the proliferation of groups, overlapping constituencies, and occasional differences in strategy and tactics, is best understood in positive terms. Jordan Lorence, who has served in several capacities with a number of Christian legal groups, said, “We’re sort of like friends, and you can have an honest discussion because there’s relationship there” (Interview, Lorence). Other attorneys expressed similar thoughts on the friendly nature of competition and organizational rivalries among CCLOs. (Interview, Ford; Interview, Fitschen; Interview, Grey). Essentially, these groups and their attorneys mostly view the role of organizational competition as healthy and positive contributions to the legal advocacy work they do on behalf of Christian conservatives.

THEME 3: Cooperation is desirable, but not essential

As Christian conservative legal groups have increased in number since the 1980s, there has also been increasing opportunities for competition and turf wars among CCLOs. However, proliferation among these groups has also led to opportunities for cooperation and collaboration,

giving these organizations more potential partners in their advocacy work. Zald and Ash (1966) argue that collaboration and alliances among competing movement organizations in the same industry are possible (and, in some cases, to be expected), but insist that such alliances are uneasy and that conflict among these groups is certainly possible. Whatever the adverse consequences, multiple organizations in the same social movement industry make collaboration and cooperation possible.

Some CCLOs have openly addressed questions of competition and collaboration among like-minded groups, suggesting that having several organizations in the same industry of advocacy bodes well for the movement's causes. On its website, NLF addresses the question of why there are so many legal groups engaged in this area of advocacy:

We certainly appreciate the concern over the proliferation of groups such as ours. The National Legal Foundation and the other Christian legal advocacy groups are very similar organizations.... The erosion of our religious freedom is real. If the leaders and lay people in communities across America are not aware of the danger, they will be ill-prepared to respond when their rights are violated.... Even with the existence of several similar groups, numerous worthy cases are turned down each year. We could actually use more groups, not less. Please be assured that the various groups have worked together in the past and, as the occasion arises, may do so in the future (NLF, "About Us").

Additionally, on its website LC states that while collaboration is desirable at times, it would actually be a disservice to the movement for groups to completely combine their efforts:

"Believing there is strength in unity, Liberty Counsel has joined forces to collaborate with many groups and organizations. We believe that like-minded groups should cooperate, but that we should not all become one group" (LC, "About Us"). ADF also makes note of its collaborative efforts with other organizations, legal and non-legal (ADF, "Allied Organizations").

Perhaps surprisingly, then, CCLO attorneys gave varying responses addressing the value of cooperation and collaboration among their groups. Some attorneys, for example, acknowledged that their organizations were willing to collaborate when the need arose. "Our

attitude is always to cooperate to the fullest extent possible,” said Fitschen (Interview, Fitschen). Greg Scott, media relations director for ADF, said, “We’re willing to share resources when we have them. In fact, we were founded to do just that” (Interview, Scott). Bowman echoed Scott, saying, “I know from working every day that this is a collaborative effort.... Our effort is to achieve collaboration where it can be achieved.” He continued, “Groups that disagree on some things can come together to pursue a common goal” (Interview, Bowman).

Additionally, Tracey said CCLOs would do well to collaborate on major causes, saying, “I think the movement as a whole would benefit from coming together on the big issues” (Interview, Tracey). Taylor also saw benefits in collaboration—in terms of information sharing—among CCLOs, saying, “You don’t want to have to remake the wheel each time you litigate a case” (Interview, Taylor). And Mylar suggested that collaboration and unity bode well for the movement’s spiritual motivations, saying, “When we’re unified, we reflect Christ more” (Interview, Mylar). These attorneys therefore suggest that cooperation is not only prevalent among CCLOs, but also that it has positive implications for Christian legal advocacy.

However, not all attorneys were so positive in their assessment of collaboration among Christian legal groups. Lorence, no stranger to working with a number of Christian legal groups, offered a more muted endorsement of CCLO collaboration, saying, “I think you have to have a unity of purpose but diversity of groups.... I think everybody benefits from a diversity of groups.” He continued, “I don’t like [the idea of] having one mega-organization running everything” (Interview, Lorence). Other attorneys were more skeptical of the benefits of consistent cooperation and collaboration among their groups. Colby cautioned against collaboration leading to adopting a unified viewpoint: “It’s better when we’re unanimous, but it’s not good to have all your eggs in one basket, ever” (Interview, Colby). Staver conveyed similar

hesitance, saying, “I think unity is beneficial, but it’s not the optimum. I think if one group walks off the cliff, it helps if other groups don’t follow.” He added, “There is a benefit to having different eyes on the same issue” (Interview, Staver). Farish was more succinct in her assessment, saying, “It weakens us all to be in lockstep” (Interview, Farish).

Given the proliferation of CCLOs in the past 30 years and these groups’ multi-issue agendas, there has been no shortage of opportunities for CCLOs to cooperate and collaborate with one another. However, not all CCLO attorneys view opportunities for collaboration and competition in the same light. Some are optimistic concerning the promise of collaboration for the movement’s goals, while others are concerned of widespread collaboration’s potentially negative consequences. Whatever one’s disposition toward cooperation among legal groups of the same industry, one attorney’s thought resonates across each interview: “We may disagree on certain strategies, but at the end of the day we’re all on the same page” (Interview, Stanley). The contents of this “page” comprise the final theme.

THEME 4: Faith must remain central for CCLO success

A last theme taken from these interviews steps back from the day-to-day workings of and differences among these groups, and re-focuses attention on what unites them: a shared religious faith. Given that CCLOs each embrace a Christian worldview in their mission statements and organizational visions, it is unsurprising that CCLO attorneys would point to the role of faith in shaping and fostering the relational dynamics among these groups. In interviews with these attorneys, the positive role of faith is very clear.

Several (indeed, most) participants acknowledged the role of faith and religious beliefs in guiding them to the practice of law, if not to their current role as a cause lawyer for Christian conservative interests. “I went into the practice of law to make a difference and help people,”

said Dan Dalton, an attorney affiliated with ADF. “This is something I feel called to do” (Interview, Dalton). Stanley used the language of calling as well: “For me, it was really more of a calling than a career decision... I wanted God to direct my steps so that I could make an impact for Him” (Interview, Stanley). Other attorneys simply noted God’s role in their vocation. “I look at the work that I do and the path that I have taken, and I totally see God’s wisdom in it,” said Millen (Interview, Millen). And Langenstein said, “This is a path that He put me on,” adding, “If I don’t stand up for it, who will?” (Interview, Langenstein). This idea of law-as-calling has been noted in other research on Christian attorneys (den Dulk 2008), and it certainly appears here.

With this mind, it should almost be expected for CCLO attorneys to acknowledge the role of faith in helping shape the dynamics and relationships among competing Christian Right movement organizations. NLF’s Fitschen, in describing his organization, said, “We consider ourselves a Christian ministry, not just a public interest law firm” (Interview, Fitschen). Herb Grey, an affiliated attorney with ADF, attributed the friendly nature of competition among CCLOs to the Christian foundation of these groups (Interview, Grey). Likewise, Mylar said, “It’s really helpful when you know other organizations with similar ideologies” (Interview, Mylar). And Bowman, speaking of ADF’s mission in training attorneys, said, “We build up an alliance of private attorneys willing to volunteer, not only for us but for other Christian legal ministries” (Interview, Bowman). The Christian foundation of these legal organizations plays a major role in how the groups see each other, and ultimately how they interact with one another.

Attorneys for CCLOs regularly see a providential hand in their legal advocacy work. Numerous lawyers spoke of the role of God in not only guiding them to the legal profession, but also in guiding the endeavors of their respective organizations. According to Colby, “God uses a lot of different people to do a lot of different things” (Interview, Colby). In this sense, the

interaction among CCLOs and their lawyers in divinely ordered. Mylar suggested that CCLO attorneys consistently depend on God’s help for their work, saying, “We’re relying on the Lord to help us” (Interview, Mylar). And Stanley said that God’s purpose for the movement and its legal groups might not always include immediate court victories: “God can work through a momentary defeat for His greater purpose” (Interview, Stanley). This perspective is consistent with other studies on legal mobilization (see McCann 1994, for example), but introduces a divine variable to the equation.

I found very little evidence in these interviews of any competition among CCLOs emanating from theological differences, either attributable directly to CCLOs or to the individuals and groups instrumental in their foundations.³ One attorney mentioned he was discouraged by the way some organizations had framed specific issues, saying of same-sex marriage, “They [LC] were wanting to pursue a knee-jerk conservative Christian response that wasn’t very nuanced” (Interview, Tracey). Similarly, Colby said CLRF’s history of forming interreligious and or ecumenical coalitions in support of religious freedom more broadly helped the organization stand out: “We will work with liberal groups on religious liberty issues.... We are willing to work with the other side” (Interview, Colby).⁴ Beyond this, these interviews did not shed light on any rivalries arising from any theological differences among these groups, despite evidence of such rivalries being present in other arenas of Christian conservative activism (see Moen 1992, for example).

Religion and politics scholars have noted faith’s role in structuring religious interest groups and movement organizations, suggesting that common problems plaguing social

³ It is no secret that Pat Robertson and Jerry Falwell (instrumental in supporting the ACLJ and LC, respectively) had a tepid relationship (Moen 1992). But there was no indication from my interviews that this rivalry manifested itself in the work of the ACLJ and LC.

⁴ While CLRF has worked with the ACLU—an organization *non grata* among CCLOs—in the past, that relationship is no longer fruitful because, according to Colby, “The ACLU is no longer for free speech” (Interview, Colby).

movements may not be as prevalent among religious groups (Hertzke 1988). The notion that a shared faith commitment may facilitate rapport and respect among otherwise competitive groups is thus understandable. CCLOs foster an organizational environment where lawyers called to litigate for religious reasons, giving them space to engage the legal profession in a non-traditional yet personally validating way. Occasional division among CCLOs is inevitable because their attorneys are “normal human beings with egos” (Interview, Lorence). But most attorneys I spoke with acknowledged the tempering role of faith and religious identity in promoting a more unified industry of legal advocacy among CCLOs. Said Mylar: “The diversity of groups is excellent... but we have to be vigilant to acknowledge our pride and humble ourselves before the Lord” (Interview, Mylar).

Discussion

The questions motivating this study concern the role of variation and diversity on the interaction among organizations in the same industry of social movement activism – in this case, Christian conservative legal groups and their mobilization and advocacy work on behalf of the Christian Right in the United States. In this chapter, I ask, how do CCLOs interact in the context of the nature of the CCLO industry, as presented in chapters three and four? Through interviews with CCLO attorneys I found several things. First, turf wars among CCLOs have existed in the past, but are becoming less and less frequent in recent years. Second, competition is usually viewed as a good thing for all CCLOs. Third, collaboration and cooperation among CCLOs is seen in varying terms among movement attorneys. Finally, faith is seen as a unifying factor in facilitating a collegial atmosphere of rivalry and competition among CCLOs. These interviews proved useful in addressing the questions central to this study.

ADF was by far the most represented CCLO in these interviews. The vast majority of affiliated attorneys with whom I spoke had some connection to ADF, and I spoke to more staff attorneys there than at any other CCLO. On the other hand, the ACLJ and the TMLC were not nearly as represented. I was not granted access to either of these groups for interviews with their staff attorneys, and I only had the opportunity to speak with a handful of lawyers who had ever been involved with them. Nevertheless, during these interviews I was able to speak with at least one person connected to every CCLO, either in a staff or affiliated capacity.

In addition to speaking to the nature of the Christian legal advocacy industry, these interviews also improved our understanding of the CCLOs at the center of this study. For example, several attorneys mentioned the facilitating role of ADF in the Christian legal advocacy realm. “ADF is very much about promoting Christians ministries,” said a LC-allied lawyer. “Their basic goal is to win cases, no matter who gets credit” (Interview, Taylor). “It doesn’t just have to be ADF attorneys” who win cases, added another (Interview, Mylar). Furthermore, one ADF staff attorney—and Christian legal advocacy veteran—said, “I think that ADF has been the catalyst that has led to this environment where tensions get worked out” (Interview, Lorence). ADF’s reputation in the CCLO industry is therefore generally positive, despite early tension over its decision to begin to litigate (Interview, anonymous; Interview, Tracey).

On the other hand, whereas most attorneys spoke admirably about ADF’s work and organizational structure, some attorneys expressed skepticism regarding the nature of the ACLJ’s work. One attorney suggested that, contrary to some CCLOs, the ACLJ was somewhat less prone to collaboration: “Although cooperative on an individual case to case basis, there is a perception that they keep their information close to their chest” (Interview, anonymous). One CCLO attorney said—off-the-record—that the ACLJ’s activity sometimes borders on the overtly

political, which could jeopardize their status as a tax exempt, 501(c)3 organization. And other attorneys—again, speaking off-the-record—suggested that the ACLJ and its leadership is more personality driven than other groups involved in this industry of advocacy. And while this criticism of the ACLJ was by no means universal among the attorneys with whom I spoke, no other CCLO generated comparable criticism from movement attorneys.

CONCEPTUAL DEVELOPMENT

As in chapters three and four, I now turn to this study's ongoing task of conceptual development. These three concepts contribute to organizational identity, which I argue is a powerful explanatory factor in organizational behavior and decision making in the industry of Christian conservative legal advocacy. And as in chapters three and four, the data presented in this chapter illuminate these concepts in important and valuable ways.

Organizational Structure

The importance of organizational structure (and resources) was evident in these interviews. Fundamentally, the interviews pointed to the importance of structure and resources in a CCLO's ability to take on responsibilities, accomplish its goals, and, put simply, to get things done. In addition to the variation among CCLOs in terms of their advocacy methods and specific causes, there exists substantial variation among Christian legal groups in terms of their structures and resources.

Take, for example, CLRF and NLF. Both organizations rank on the low end of available resources among CCLOs, in terms of both financial resources and staff attorneys. It was therefore not surprising to learn through these interviews that both organizations have serious limitations in their efforts and capabilities. Fitschen told me that, due to the size of NLF,

everything comes across his desk; at the time of the interview he said he was the only staff attorney at his organization (Interview, Fitschen). Likewise, Colby mentioned that CLRF has seen its resources and staff size decrease, saying, “The recession hit us pretty hard” (Interview, Colby). Like Fitschen at NLF, Colby said she was the sole staff attorney at CLRF, which previously had four or five such attorneys in previous years.

On the other hand, the ACLJ and ADF significantly outpace other CCLOs in terms of resources (see chapter two), affording them a greater ability to take more cases, file more briefs, write more letters, and the like. ADF boasts an extensive network of affiliated attorneys, allowing them to be involved in cases all over the country (LC also publicizes its allied attorney network); the ACLJ has also relied on affiliated attorneys in the past. And in case sponsorship and press releases, ADF stands above other organizations by a healthy amount (see chapter three). Only in amicus curiae briefs does ADF trail other CCLOs, one of which is the ACLJ. And while financial resources are important, staff structures are also important. “The greater staff [at ADF] enables greater capacity to be involved in many issues.... There’s some things we’ve been able to accomplish at ADF solely because of our staff size” (Interview, Stanley).

Organizational structure (and resources) account for how and to what extent a public interest legal group will engage in advocacy supportive of its movement. In this case, CCLOs with more resources and a solidified structure with multiple staff attorneys and a network of affiliated attorneys are better equipped to handle a broad workload than CCLOs lacking these resources. While organizational structure is not everything, it certainly is a contributing factor to legal groups’ identities in a shared industry of social movement activism.

Organizational Expertise

Unlike the data analyzed in chapter three, the present chapter's reliance on interviews did not contribute as much to the development of organizational expertise as a concept critical to public interest legal groups. But organizational expertise did occasionally come up in these interviews, and when it did, it shed light on a group's priorities and strategies in its legal mobilization efforts. CLRF's overwhelming focus on religious freedom issues in its case sponsorship and amicus curiae activities suggests that the organization prioritizes this issue at the expense of others, more so than other groups in its industry. Colby confirms this, saying, "We represent religious liberty, and that really is our focus" (Interview, Colby). And while CLRF does maintain a multi-issue agenda (including sanctity of life and traditional values issues), the majority of its work is focused on religious freedom. Other CCLOs take a more explicitly holistic approach to their advocacy efforts. And as chapter three illustrates, while CCLOs do share an overarching agenda, there is considerable variation among these groups in terms of their specific causes and issues.

An organization's expertise may be in the form of a particular legal strategy, as is the case with the ACLJ: "The ingenious strategy of the ACLJ was to recognize that presenting issues in the freedom of speech context, as opposed to freedom of religion, often presents a better chance of prevailing" (Interview, Nielsen). Furthermore, an organization's expertise may not be relegated to the cause and issue arenas, as ADF was lauded for its work in training future and current movement attorneys: "They're becoming dominant. They've been very successful in raising funds and providing lawyers with resources. They're also the only group that trains lawyers" (Interview, Bopp). But at a fundamental level, organizational expertise speaks to a legal group's priorities and attempts to carve out a niche in its industry of social movement activism. The data in this chapter and in this dissertation suggest that CCLOs are no different.

Organizational Relations

Like chapter four and its focus on the network of Christian legal advocacy in the United States, this chapter presents key findings about the role of organizational relations in constructing a public interest legal group's organizational identity. Indeed, a primary purpose of this chapter was to determine how the variation that exists among CCLOs affects the dynamics among groups in this industry, including the ways in which these groups interact and work together. As such, the data from these interviews helpfully develop this concept: legal advocacy groups, even those sharing a crowded social movement industry, try to work together—or at least in implicit concert with one another—in support of the causes and interests central to their shared movement. And while turf wars and disagreement over legal strategy sometimes erupt, these lawyers suggest that such instances are not the norm.

All of the themes referenced above pertain to the relationships among Christian legal advocacy groups. From the existence of turf wars to the benefits of competition, and from the roles of collaboration and a shared faith commitment, these interviews shed significant light on how legal advocacy groups in a shared social movement industry interact and intersect. Among movement attorneys, some CCLOs were portrayed as more open to collaboration and partnership (ADF, CLRF) than others were (the ACLJ). For the most part, though, movement attorneys talked about competing CCLOs in consistently collegial terms, even those groups they questioned or with which they disagreed. For example, while multiple attorneys had varying opinions on the so-called personhood approach to pro-life litigation, this disagreement did not extend to outright hostility among CCLOs (Interview, Bopp; Interview, Millen; Interview, Staver).

Given the status of these groups as social movement organizations competing for finite resources from finite and overlapping constituencies, the relationships among individual CCLOs are in some ways always going to be somewhat strained. For example, one attorney said, “There is a sense that sometimes they’re less likely to work together because of trying to maintain their donor bases” (Interview, anonymous). As seen in this chapter, competition (friendly as it may be) and occasional turf wars have been and always will be features of this industry of advocacy. Nevertheless, so long as the mediating role of a shared faith commitment is present, these attorneys and their organizations will likely embrace the positive role of competition in refining and sharpening their work. Despite the non-monolithic character of Christian legal advocacy, the organizational relations among these organizations (while varying from CCLO to CCLO) seem to be mostly positive.

Conclusion

In this dissertation I have attempted to explore the composition and dynamics of an active social movement industry engaged in legal mobilization and advocacy, all to better understand the role of variation among movement organizations in the structure and actions of this industry. I first described the industry of Christian conservative legal advocacy in the United States, paying attention to the CCLO network in terms of amicus curiae participation and case sponsorship activity. I have also shed light on the diverse nature of this industry of legal groups, exploring the issues on which they have most regularly acted and the methods by which they have pursued a shared agenda.

In this chapter, I investigated the effects of this variation on CCLO by speaking to their attorneys, asking questions about the competition, cooperation, and collaboration among CCLOs. In the process I learned that CCLOs, organizational diversity notwithstanding, maintain a

generally collegial relationship with rival organizations, viewing ensuing competition as a positive factor in improving the quality of their work; in supporting their claims several attorneys cited the Biblical Proverb, “Iron sharpens iron, so one man sharpens another” (Proverbs 27:17). Despite the occasional strategic or tactical disagreement, a shared faith commitment acts as unifying tool in the industry of Christian legal advocacy.

But there remains a bit more to be said. Important questions remain. How have the various sources of data and different methods of analysis informed this study’s broader conclusions? How has this study developed the concepts introduced in chapter two? And where can future studies—in social movements, law and society, and religion and politics—go in expanding on the questions introduced here? As I conclude this dissertation, it is to these questions I now turn.

CHAPTER SIX

ORGANIZATIONAL IDENTITY AND LEGAL ADVOCACY IN SOCIAL MOVEMENTS: CONCLUDING THOUGHTS AND FUTURE DIRECTIONS

“We may disagree on certain strategies, but at the end of the day we’re all on the same page.”

--- Erik Stanley

Senior legal counsel, Alliance Defending Freedom

The first part of the title of this dissertation is “Organizations, Religion, and Legal Mobilization.” As such, this dissertation has explored the role of legal mobilization in religious movements through focusing on the activities and influence of CCLOs in their broader social movement, namely, the Christian Right in American politics. More broadly than this, though, this study has analyzed how organizations part of the same social movement interact with each other, holding a mostly shared agenda yet remaining distinct and independent organizations in pursuit of the movement’s goals. I have found that, while representing the same movement and pursuing many of the same causes and interests, CCLOs exhibit a great deal of variation in their advocacy focuses and methods, in their respective networks and coalitions, and in the way they interact with and deal with each other in the confines of a shared movement. Despite appearing to be somewhat homogenous—based on their mission statements and actions, as well as on perceptions of outside observers (Boston 2000)—I argue that CCLOs are non-monolithic in the way they act on behalf of the Christian Right. This, in turn, effects how these groups interact with one another as social movement organizations.

In this study I have done several things. I have identified a specific subset of movement organizations comprising a particular, unique industry working on behalf of a shared movement. I have described the activities of these organizations, with special attention to the variation across the range of causes, strategies, and tactics these groups adopt in support of their shared

movement. I have explored the network among these movement organizations, presented in two separate yet related modes of mobilization in the CCLO industry. And I have spoken with staff attorneys at CCLOs and allied attorneys affiliated with CCLOs, getting their thoughts and perspectives on organizational interaction, cooperation, and competition in Christian conservative legal advocacy. In doing so I have presented the most complete picture of legal mobilization in religious movements to date, while simultaneously showing how groups in the same movement interact in light of organizational distinctions and differences.

In this final chapter I restate and synthesize the previous chapters' findings. Not surprisingly, this study's three main sources of data—and my methods of analysis—did not always yield identical results or tell the same story. Thus, I briefly explain what this data can tell us about social movement organizations, legal mobilization, and Christian Right advocacy, and how these different data and analyses broaden our understanding of these concepts. I also spend time summarizing the three concepts discussed throughout this dissertation: organizational structure, organizational expertise, and organizational relations. Specifically, I explain what these concepts mean for CCLO advocacy, as well as how these concepts could be utilized in future research on legal mobilization, in religious movements and beyond. Finally, I point to the key shortcomings of this study, while also suggesting future areas of research this study did not address.

Different Data, Different Methods, Same Story?

A strength of this study is its reliance on multiple sources of data and different methods of analysis. Early in this dissertation I spoke of how these methods and data work together in constructing a holistic narrative of legal group mobilization, in addition to employing the methodological triangulation that counters biases and clarifies findings (de Solo and Schatz

2004). But in light of the previous chapters, did this in fact prove to be true? That is, did this data tell a consistent and reliable story about CCLOs and their roles as movement organizations for the Christian Right? Did the data confirm each other? And if not, what variation is there in these data, and what can this variation tell us about organizational interaction and legal mobilization in social movements?

Not surprisingly, several common threads and themes emerged from these chapters' data and analyses. That CCLOs vary in their advocacy efforts and methods is a finding supported in multiple places—and across chapters—throughout this study. Chapter three's spotlight on CCLO issue attention and methods of legal advocacy confirms a varied and non-monolithic approach to legal mobilization and issue awareness in the CCLO industry. Chapter four's focus on network data and social network analysis confirms the presence of various and distinct advocacy coalitions in the broader CCLO network. And chapter five's discussion of varying degrees of advocacy focus among CCLOs—such as CLRF's main focus on religious freedom and the ACLJ's foray into more explicitly political activity—supports this main finding. Thus, organizations in the same movement may be pursuing the same causes and interests from time to time, but a closer, more detailed examination reveals a varied and diverse agenda among individual CCLOs. Through multiple sources of data and different methods of analysis, this finding was consistent from chapter to chapter.

In a related sense, each data source pointed to different realms of expertise and niche areas among CCLOs. Chapter three's analysis and subsequent discussion implies that individual CCLOs, while officially maintaining much of the same issue agenda, vary significantly in their actual efforts, with some groups—like CLRF—remaining limited and committed to a select few issues, and with other groups—like the ACLJ—maintaining a healthy focus on issues outside

their stated purview. The fourth chapter's portrayal of a legal advocacy network structured with various coalitions and constituencies suggests that CCLOs appeal to and work with different crowds. Chapter five's interviews, meanwhile, offer accounts of lawyers who clearly believe that some CCLOs are better equipped for certain advocacy efforts than others. Thus, the data from these chapters all confirmed the same thing: among seemingly similar CCLOs there are unique degrees of expertise and niche areas, which influences the interaction, cooperation, disagreement, and even competition among these organizations.

While there were instances of each kind of data supporting the same findings in this dissertation, there were findings in this study unique to a certain kind of data and analysis, and in some cases even conflictual with others. The challenge, then, lies in reconciling these unique findings to tell a cohesive story about Christian legal advocacy, organizational interaction, and social movement activism. Put differently, variation in data and findings can yield unique and interesting results beneficial to the broader study.

For example, chapter three's content analysis and coding of primary sources (including press releases, amicus briefs, and case sponsorship information) revealed that CCLOs vary a great deal in their specific issue focuses and methods of advocacy. This analysis found that each CCLO's work allows it to stand out in an otherwise crowded industry of Christian Right movement activism. And unlike in other chapters, this analysis highlighted the issues and causes on which different CCLOs concentrate their resources, pointing to the variation in how these groups talk about and focus on many of the same causes and issues. In this way, this chapter found that despite being dedicated to the same major issues (namely, religious freedom, homosexuality, and the sanctity of life), CCLOs are far from monolithic in their respective advocacy efforts. And what is more, CCLOs are quite different in their efforts beyond these

major issues, with some taking a more broadly political tack and others remaining largely silent and inactive apart from these issues.

The data and methods in chapter three were uniquely able to address how CCLOs interact in terms of their advocacy methods and chosen issues, with some groups overlapping in these areas more than others. Further, this chapter finds that this interaction is not uniform across organizations, as different groups are shown to have different issue focuses and methodological preferences as they attempt to establish their niche in a shared industry. Whereas the other chapters of this dissertation described the industry of CCLOs (as connected to other Christian and conservative interest groups) and explored the dynamics among these groups in light of the differences among them, chapter three distinctively spoke to the range of variation in CCLOs' causes, issues, and advocacy efforts. In doing so, it illuminated and contextualized chapter four's analysis and helped set the stage for chapter five. Overall, chapter three's story is unique in its exploration and analysis of the variation present in the CCLO industry, variation critical to how CCLOs interact, cooperate, and compete with one another.

Meanwhile, chapter four's reliance on social network analysis was unparalleled in its ability to speak to how CCLOs interact in two crucial settings: *amicus curiae* advocacy and case sponsorship. These findings suggested that CCLOs, despite being members of the same social movement industry (as confirmed through chapter five's interviews), differ substantively in the company they keep, at least in terms of their partners in *amicus curiae* filings and case sponsorship. Depending on the issue or case in question, some groups are better situated with interest groups from other religious traditions or even liberal ones, and other groups are more comfortable with Christian, traditional, politically conservative interest groups. And while this finding is consistent with the broader theme of diversity among organizations in the Christian

legal advocacy industry, it is unique in its ability to speak directly to how CCLOs interact as members of the same movement industry. Indeed, the data and method from this chapter is perhaps best equipped to answer the question of organizational interaction among groups in the same movement, at least in concrete, easily identifiable terms.

More than any other source of data in this study, the interviews conducted and analyzed in chapter five make clear that there is a sincere desire for CCLOs and their attorneys to work in concert (though not necessarily in unison) in support of the agenda widely held by Christian conservatives. And while some attorneys spoke of the occasional adversarial nature of legal advocacy, most referenced the overwhelmingly collegial atmosphere of their specific legal network. Some suggested this is due to a shared faith commitment among groups and their attorneys, while others suggested that lawyer movement among various organizations promotes healthy relationships among groups. Whatever the reasons, most lawyers interviewed spoke of the affable nature of Christian legal advocacy, despite evidence in the previous chapters indicating sometimes testy relationships. According to these interviews, organizations in this movement industry interact in a mostly pleasant fashion.

This finding, suggesting a sort of universal harmony in the CCLO industry, seems to be at odds with findings from earlier chapters, namely, that CCLOs do not always present a monolithic or unified front in their legal advocacy work—particularly in instances of disagreements going public. Whether in high profile cases (like Proposition 8) or on certain strategies and approaches to major issues (like the personhood strategy in pro-life litigation), other evidence suggests that CCLOs are hardly always supportive of their compatriots' efforts. Now, it is possible that the attorneys interviewed wanted to put a positive face on their organizations and on the broader industry of Christian legal advocacy; in fact, several attorneys

went off the record when discussing other groups to avoid even the prospect of souring relationships with other attorneys and organizations. In spite of this possibility, though, there was enough criticism in these interviews to suggest that there was no systematic effort to portray Christian legal groups and advocacy in an inaccurately positive light. The more likely explanation is that most CCLO attorneys genuinely support the work of their brethren, in spite of occasional instances to the contrary. Such a nuanced finding could not have been seen in other chapters and in other research methods.

This brief section has shown how the different data and analyses in this dissertation yielded different and unique findings. The question is, how can these unique findings be reconciled to tell an accurate and compelling story about how organizations interact with one another in the same social movement industry? First, I have structured this study so that the different analyses build on the previous one(s), in order to present a layered, detailed, and comprehensive account of CCLO mobilization and interaction. By addressing related yet different components of CCLO advocacy, these chapters and their analyses prove to be equally important in the context of the broader dissertation.

Chapter three's qualitative content analysis, for example, establishes variation in CCLO legal advocacy efforts and sets up attention to organizational relations in the following chapters. Chapter four's social network analysis, on the other hand, introduces the structure of and connections among groups in CCLO advocacy, which has implications for both chapter three's understanding of niche and unique organizational focuses and chapter five's questions for these groups' attorneys. And chapter five's original interviews and analysis both clarify and challenge the findings from chapters three and four, leading to a more accurate and well-rounded story of group interaction and diversity in a social movement industry. Even chapter two's detailed

outline of what makes a CCLO a CCLO—which essentially established the framework for the rest of the study—and introduction to the CCLO industry is necessary for the three strictly empirical chapters. When read in concert, the results from each chapter—while often unique and sometimes conflictual—provide for a more complete picture of organizational interaction, using CCLOs as a case study.

Second, the findings unique to each chapter in this dissertation affirm the complexity and challenges involved in studying social movement organizations. That is, questions about unique movement organizations, the variation among them, and how this variation affects the dynamics, interaction, cooperation, and competition among these groups require several data sources and types of analyses for these questions to be adequately addressed. Thus, these findings, while disparate at times, are all necessary for a complete account of CCLO interaction as social movement organizations. In spite of the unique and original findings from these different chapters, without each approach the story of CCLOs and their interaction and variation as social movement organizations would have been incomplete. One might actually expect different data to portray a somewhat different story, given the variations in sources and analysis.

It is therefore evident that each kind of data offers something distinctive to this study's key finding: despite displaying similarities in terms of agendas and stated goals, CCLOs interact in different ways with one another as contributors to the Christian Right movement based on the organization's structure, expertise, and relations, all of which contribute to the group's identity. And even when different data speak to each other in conflicting terms, the study's broader story nevertheless remains: CCLOs, while exhibiting many similarities to each other as part of the same movement industry, nevertheless are different and distinct in their specific causes, strategies, and interactions with other groups. Without this varied approach to data collection and

analysis, this dissertation would surely be lacking in the story it is able to tell regarding Christian legal groups and interaction among groups in the same movement.

Conceptual Development

In the early stages of this dissertation I pointed to three concepts central to the origination, development, and evolution of individual CCLOs in the industry of Christian legal advocacy: *organizational structure*, *organizational expertise*, and *organizational relations*. These three concepts, constitute an organization's identity, and as I just stated, this identity is a crucial factor in facilitating interaction among organizations like CCLOs. Throughout this study I have addressed each concept, explaining how different sources of data have improved our knowledge of each concept in the context of organizational identity among movement actors. I now turn to a more thorough and rigorous conversation of this conceptual development. In doing so, I discuss not only the variation among these concepts but also how these concepts explain the nature of Christian conservative legal advocacy in the United States, both at the group and industry levels. This, in turn, informs our broader understanding of social movement advocacy in light of their organizations, particularly in terms of how like-minded yet distinct groups interact in a shared movement.

Organizational Structure

The term "organizational structure" alludes to various internal characteristics of a group, including its reliance on affiliate attorneys and its cache of resources (both financial and otherwise). Throughout this study it has become clear that CCLOs differ significantly in their organizational structures. For example, some groups utilize and publicize their use of affiliate or allied attorneys, while others are content or forced to rely more on their own staff attorneys.

Likewise, some groups have a multi-million dollar budget with which to litigate cases, draft amicus curiae briefs, train attorneys and law students, and operate multiple offices within the organization, while others are fortunate to have one or two attorneys doing the lion's share of the work. Like in any other social movement setting, in the CCLO industry there are clearly "haves" and "have nots." Thus, understanding and examining organizational structure among movement organizations is of central importance in any research of such groups.

This study has illustrated the value of organizational structure in the operation and interaction among CCLOs, acting as social movement organizations for the Christian Right. Chapter two described each CCLO, introducing the leadership of groups and touching briefly on their compositions and structural organizations; in this way, we see organizational structure as a crucial contributing concept to organizational identity. Chapter three did not directly address the concept of organizational structure, but its findings did point to the various ways in which CCLOs have acted in support of specific causes and issues. Again, in terms of clarifying group resources, this data was especially insightful. Similarly, while chapter four could not speak much to the internal structure of each organization, it was able to speak volumes about the nature of the CCLO network and the ways in which these groups interact with each other and other actors in legal advocacy. In doing so, it alluded to CCLOs' capabilities and resources and their mobilization tendencies, key components of organizational structure.

But it is in chapter five where organizational structure, as a concept, is most clearly articulated and its importance to social movement organizations—in this case, CCLOs—is most clearly seen. The attorneys with whom I spoke articulated the importance of resources, leadership, and how a group is organized in the actions and behavior of that group. For example, multiple attorneys spoke of the resources of ADF as being critical to its efforts and reach into

various areas of legal advocacy; one attorney said, “The greater staff enables greater capacity to be involved in many issues” (Interview, Stanley). Additionally, the importance consequences of organizational leadership was not lost on these attorneys, as several lawyers acknowledged the positive (and in some cases, negative) value of those at the helms of these groups.

In this dissertation it became evident that organizational structure facilitates a group’s expertise and relations with other groups, the other two concepts developed throughout this study. The structure and resources of a CCLO will inevitably contribute to that group’s expertise and niche, in addition to affecting how that CCLO interacts with other organizations, including those sharing space in its social movement industry. In terms of understanding how organizations in the same movement interact with one another, exploring these groups’ organizational structures (and resources) is a crucial task.

Organizational Expertise

Organizational expertise, as a concept contributing to a social movement organization’s identity, is perhaps the most tangible and visible of the three concepts developed throughout this dissertation. In exploring the causes, issues, and strategies central to CCLO advocacy, each group’s expertise became abundantly clear. And with this expertise came insight into how these groups act and react to one another in the same community of movement activism, especially when a CCLO’s expertise overlaps with another organization in its industry. A group’s expertise, therefore, helps explain its interaction with other organizations of the same movement.

Each chapter of this dissertation spoke to some degree of organizational expertise among CCLOs. Chapter two, introducing the organizations central to this study, touched on the main issues important to each CCLO, at least as demonstrated in the groups’ mission statements. This chapter also introduced the traits of each group contributing to its expertise (such as ADF’s

emphasis on attorney training and the TMLC's commitment to defending religious freedom for Christians only). Meanwhile, chapter four's focus on the network structure of Christian legal advocacy did not touch directly on organizational expertise. However, some inferences can be made based on the groups with whom CCLOs were found to most frequently interact – see CLRf's partnership with primarily religious organizations and the ACLJ's propensity to file briefs with Republican members of Congress.

Chapters three and five provided the best window into organizational expertise among CCLOs, although each chapter addressed this concept using different sources and with a different perspective. Chapter three's focus on the causes pursued and modes of advocacy exercised by these groups spoke volumes about their varying arenas of expertise in Christian legal advocacy. These findings suggested that while CCLOs generally have the same broader agenda (seen in attention to causes and issues), the attention to and focus on this agenda is hardly uniform across organizations. Religious liberty is the one issue in which there is unanimous agreement among CCLOs concerning its importance (as measured in CCLOs' focus on the issue), but beyond this, these groups vary significantly: some emphasize same-sex marriage, others emphasize the sanctity of life and opposition to abortion, and others emphasize issues outside the traditional issue triumvirate. What is more, there is variation in the advocacy methods by which these groups pursue certain issues, as well as in the attention to specific issues and causes within these different methods. Chapter three's analysis made clear that organizational expertise varies among CCLOs, despite general adherence to the same broader agenda.

Chapter five, meanwhile, relied on the perspectives of the attorneys central to CCLO advocacy in developing the concept of organizational expertise, in addition to its importance in crafting organizational identity. Interviewed lawyers regularly noted the varying degrees of

organizational expertise in the Christian legal advocacy community, with some groups embracing a more ecumenical—and even interreligious—approach to legal advocacy on behalf of Christians and others acting in a more political fashion to support a wider, more inclusive range of conservative policy goals. The attorneys with whom I spoke also noted distinctions in CCLO activity beyond attention to causes and issues, such as dedication to attorney training programs (specifically, ADF) and presence in the media (specifically, the ACLJ). Therefore, these attorneys suggested, organizational expertise pertains to the issues most central to the group’s advocacy *and* to the ways in which a group attempts to affect society apart from those issues.

This study has discovered that groups embrace their unique organizational expertise as a means of standing out in a crowded social movement industry. In this way, organizational expertise allows a group to establish its niche among similar, like-minded groups competing for resources in the same movement. Despite acting on many of the same cause and issues, CCLOs nevertheless find ways to separate from other groups in a variety of ways (in specific causes, advocacy methods, or institutional design). And this separation affects how these groups interact with one another, particularly when strategies and tactics come into direct conflict.

Organizational expertise, therefore, both guarantees and structures interaction among social movement organizations in the same industry.

Organizational Relations

A crucial contributor to any movement organization’s identity is how the group relates to other organizations. Organizational relations, as a concept, addresses how a given organization acts and reacts with respect to other groups, particularly those in the same community or industry. Thus, organizational relations plays a key role in a main question of this study, namely,

how CCLOs interact with one another in light of a broadly shared agenda yet variation in specific causes, strategies, and tactics.

As was the case with organizational structure and expertise, each chapter of this dissertation aided in the development of the concept of organizational relations. But some chapters are more relevant to this concept's development than others. For example, chapter two's introduction to CCLOs and the industry of Christian legal advocacy set the stage for the chapters to come, presenting the groups making up this industry and briefly discussing the organizational characteristics of each group affecting their relations with other groups. And chapter three's analysis of press releases and legal briefs showed that some organizations are more prone to mention and reference the work of other, competing groups, while others are less prone to do so. But in terms of aiding in the conceptual development of organizational relations, chapters two and three appear to be somewhat lacking.

On the other hand, chapter four's attention to the structure of the CCLO network—at least in terms of amicus curiae advocacy and case sponsorship—painted a detailed picture of CCLO relations in an easily measured and identifiable way. In analyzing the ties among nodes (or connections among groups) in different contexts, this analysis highlighted the existence of various coalitions in a broader network, marked by different kinds of organizations and various numbers of regular partners (or friends) in these coalitions. CLRF, a small CCLO, was shown to have a number of friends in its advocacy work across the spectrums of ideology and religious traditions, while LC, a large CCLO, was shown to have few regular partners in its advocacy work. In a related sense, some CCLOs were shown to commonly partner with other groups in both amicus curiae advocacy and case sponsorship (CLRF and ADF, for example), while other organizations were shown to more frequently work alone (the ACLJ and NLF, for example). In

developing the concept of organizational relations, chapter four's social network analysis was an ideal method.

If chapter four presented a structured, ordered conception of organizational relations among CCLOs (as depicted through ties between nodes), then chapter five provided a more nuanced account of these relations among groups in the same movement industry. Speaking with movement attorneys in the way described allowed for candid reflections and perspectives on how different groups engaging in Christian legal advocacy relate to one another, in light of organizational distinctions and diversity. These perspectives shed light on the realities of intergroup competition, from the positives that this competition brings to the broader industry's quality of work to the negatives that such competition can bring (the propensity for tension among groups representing the Christian community, for example). Additionally, these attorneys spoke of the important role of faith in keeping CCLOs focused on the bigger picture – namely, winning legal battles for peoples of faith (especially Christians), regardless of who gets credit for these victories; in light of other data and analyses and according to some attorneys, this goal is often easier said than done. According to this chapter, organizational relations among CCLOs are therefore complex and multi-faceted.

Organizational relations, as a concept, obviously contributes to interaction among movement organizations—in this case, CCLOs. Organizational relations speaks to the relationships—and, perhaps just as importantly, the potential for relationships—among CCLOs, which has clear implications to how these groups interact with one another as members of the same movement industry. This dissertation has developed the concept of organizational relations in several ways, with each chapter contributing to its development in unique ways – though, as this section has noted, some chapters are clearly more valuable than others. Nevertheless, in each

chapter of this study organizational relations is seen to be a crucial concept for structuring organizational identity among the various CCLOs.

Three Concepts, One Identity

Groups engaged in legal mobilization on behalf of Christian conservatives in the United States bear several similarities, including mission statements, attention to a broader agenda, and tools in their respective advocacy arsenals. However, as I have argued in this dissertation, these groups are not monolithic. Instead, CCLOs differ in several consequential and important ways, including those discussed in this brief section. Organizational structure, expertise, and relations all contribute to organizational identity, which facilitates how groups in the same movement industry inevitably interact with one another. Organizational identity plays a critical role in social movement organizations' interactions with one another, as well as in how these groups offer unique incentives to potential employees—in this case, staff and affiliate attorneys—and to their donor bases. In a social movement industry with multiple actors, the organizational identity of each group is of great importance in allowing individual groups to establish unique niches in that industry. As this dissertation has shown, organizational identity among CCLOs is no exception: in spite of inevitable similarities, social movement organizations in the same movement industry can vary in meaningful ways, and these ways—including structure, expertise, and relations with other groups—affect how these groups interact with one another in support of the movement.

Future Directions

This study has explored how organizations in the same movement interact with one another, with a sole focus on Christian conservative legal groups and their work on behalf of the Christian Right in the United States. In this sense, this dissertation appeals to the social

movements, law and society, and religion and politics literatures, acting as a bridge of sorts between each one. In doing so, it draws these oft disparate literatures together to tackle questions reaching into each area. This study is unique in its bringing these literatures together.

However, there remains good work to be done in this arena. One limitation of this study is its perpetual focus on Christian conservative legal groups in developing a framework for how groups in the same movement interact with one another. While I have no reason to believe that these groups are outliers among social movement organizations, it would be beneficial to consider some of this study's questions while exploring a different sample of groups. On a related note, while I am confident that this study's scope conditions are justifiable, future research may want to look more broadly at Christian legal mobilization endeavors, including groups and organizations intentionally excluded from my analysis (such as single-issue groups and groups whose main focus is not legal advocacy). Expanding this sample may yield improved or different results, as well as open the door to more variance among these legal advocacy groups.

Additionally, as noted in chapter five, I was not able to gain direct access to staff attorneys at every CCLO. Multiple attempts to reach staff attorneys at the ACLJ and the TMLC were unsuccessful, with a spokesman for the ACLJ eventually telling me they were not interested in participating and the TMLC never responding to my requests. I was able to speak with attorneys who had previously had experience with these groups (one as a senior counsel for the ACLJ, and others who had served in an affiliated capacity for the TMLC), so I was not shut out completely. But the fact remains that I was only able to speak with current staff attorneys at four of the six organizations in my study; this is a limitation that cannot be ignored. In future studies I would hope to gain access to these organizations for interviews with their attorneys,

likely by asking past participants to vouch for the legitimacy of my study, and by pointing to this dissertation as evidence of the academic (and non-political) purpose of this research. However, it may be the case that some organizations are simply unwilling to participate in research of this kind, for the reasons introduced in chapter five. Future research on this (and other) topics may have to deal with these (and related) challenges

Furthermore, this study has a stated focus on Christian conservative legal advocacy, and has at times used the more brief “Christian legal advocacy” as a synonym. This conflation was not a result of carelessness, but is rather an acknowledgment that, as of the writing of this dissertation, there is no such thing as a Christian liberal legal organization to which one may compare CCLOs. That is to say, while there are Christian counterparts to the National Right to Work Legal Defense Association and the Institute for Justice (conservative and libertarian public interest law firms), there are no Christian counterparts to the American Civil Liberties Union (a liberal public interest law firm).¹ It may be valuable to explore the reasons behind the lack of legal groups advocating for progressive Christians, potentially by reaching out to established organizations in this community (including Sojourners, Evangelicals for Social Action, and others) for their perspectives. This question, while unable to be addressed in this dissertation, is one worth exploring in future research.

Finally, this study did not conduct any sort of standardized, widely distributed survey of CCLO organizations and their attorneys. A future project may want to go down this path. A survey of this kind could shed valuable light on organizational motivations, allegiances, and issue focuses, as well as on the motivations and characteristics of movement attorneys broken down by specific organizations. Such a project would go a long way toward corroborating,

¹ Oddly, the closest thing to a Christian liberal legal organization may in fact be the Rutherford Institute, given its evolution over the years. But even then, it is probably better characterized as a Christian libertarian legal group given the reasons discussed in chapter two.

clarifying, and adding to the results of this dissertation, as some of its same questions would be asked and approached from a methodologically different direction. A survey of CCLOs and their attorneys could provide valuable insight into the organizational dynamics of this unique social movement industry.

Despite these limitations and the potential for future research on this topic, this dissertation has filled a valuable need in the literatures on social movements, law and society, and religion and politics. By focusing on how CCLOs interact with one another in Christian Right legal advocacy, it recognizes the importance of variation and diversity in social movement industries. This study also points to the importance of organizations in legal mobilization activity, as these organizations provide space and structure for cause lawyers for act in accordance with their calling and views of the legal profession. Finally, this study highlights the importance of legal advocacy in religious mobilization in the United States; till now, the vast majority of research in this arena has focused on congressional lobbying and grassroots political organizing. Therefore, while limited in some ways, this study's methodological and substantive strengths—as well as its ability to bring together several disparate literatures to speak to a singular topic—make it an valuable contribution to research across several distinct subfields of political science.

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APPENDICES

APPENDIX A

CODE BOOK

In coding sponsored cases, amicus briefs, and press releases by issue area, I relied upon an ad hoc coding scheme that I slowly developed throughout the coding process. That is, I did not identify the areas to code ahead of time and attempt to fit each item into this pre-ordained scheme. Instead, I identified issue areas as they emerged, and assigned these issues codes that captured the essence of the item while still limiting the total number of codes to be used. My overarching coding scheme is broken down into two schemes: one simple, and one detailed (for this dissertation, I utilized only the simple coding scheme).

Simple Coding

The simple coding scheme is as follows:

- ❖ 1 – Religious freedom/establishment
- ❖ 2 – Homosexuality/gender/marriage/family
- ❖ 3 – Sanctity of life
- ❖ 4 – Christmas
- ❖ 5 – Other speech
- ❖ 6 - Obscenity
- ❖ 7 – Other (legal)
- ❖ 8 – Other (non-legal)

I found that these eight codes effectively captured the essence of each item from my datasets, including sponsored and cosponsored cases, amicus curiae briefs, and organizational press releases. Each item was only coded once (that is, an item was not given more than one code). I now list the criteria by which each code was measured, as well as provide examples of each code taken from my collected data (I present only the headlines/case names as examples; the text that bolsters each item's coding decision is available by request):

- ❖ 1 – Religious freedom/establishment

I coded items as “1” when the issue at hand had to do with promoting, restricting, defending, or arguing against: an individual's religious liberty, speech, or actions; government endorsement (explicit or implicit) of religious activity or symbols (except in the case of Christmas, which has its own code); and America's Judeo-Christian heritage and values.

Items coded as “1” include:

Religious Freedom Trumps Public School Efforts to stop Bible Reading (ADF Press Release, 12/12/2003)

ADF announces new initiative to reclaim pastors' First Amendment rights (ADF Press Release, 5/9/2008)

ACLJ Files Federal Lawsuit Against NY School on Behalf of 7th Grader Suspended for Wearing Rosary to School (ACLJ Press Release, 6/1/2010)

School Decides to Cancel Diversity Day Rather than Include Viewpoint of Christians and Former Homosexuals (LC Press Release, 3/22/2006)

This was a particularly broad category, but necessarily so since there is a great deal of interplay between religious expression and establishment of religion (Chief Justice Rehnquist, writing in *Locke v. Davey*, called such interplay an example of “play in the joints” jurisprudence). This code also captures instances of an individual speaking out against something (including homosexuality but excluding abortion, the latter of which has its own code) on the basis of one’s religious beliefs. In any instance where the speaker’s religious beliefs are presented as integral to the case or situation, the item was coded as “1.”

❖ 2 – Homosexuality/gender/marriage/family

I coded items as “2” when the issue at hand had to do with homosexuality, same-sex marriage, traditional conceptions of gender and the family, and the like. Items that included people protesting homosexuality without a direct reference to the protestor’s religious beliefs were also coded as “2.” Otherwise, they were coded as “1.”

Items coded as “2” include:

House Set To Take Historic Vote On Marriage Protection Amendment (LC Press Release, 9/29/2004)

Maryland high court affirms parental rights for fit parents (ADF Press Release, 5/20/2008)

Gay Adoption (NLF Press Release, 3/21/2002)

Morgan v. Kifus (CLRf Sponsored Case, COURT OF APPEALS OF VIRGINIA, 2011 Va. App. LEXIS 126)

As was the case with code “1,” this was a fairly broad coding category. In any instance where there is support for traditional marriage, opposition to expanded (or “special”) rights for LGBT citizens, or defense of the traditional family unit, the item was coded as “2.”

❖ 3 – Sanctity of life

I coded items as “3” when the issue at hand had to do with the sanctity of life, broadly construed; this includes speech, action, or symbols opposing abortion or supporting a pro-life perspective, as well as opposing abortion and related activities in a professional setting. Items reacting to specific legislation or judicial rulings on the legality of abortion were coded as “3,” as were items specifically dealing with a viewpoint on abortion or life (including defending the rights of those picketing or protesting outside abortion clinics).

Items coded as “3” include:

Victory for California Middle School Student: Pro-Life T-Shirt is Protected Free Speech (TMLC Press Release, 8/17/2010)

Menges v. Blagoevich (ACLJ Sponsored Case, UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF ILLINOIS, SPRINGFIELD DIVISION, 2006 U.S. Dist. LEXIS 37770)

No choice: Doctors forced to perform abortions or else? (ADF Press Release, 1/22/2009)

ACLU Ends Legal Challenge Against Ohio "Choose Life" License Plate (LC Press Release, 9/20/2006)

In any instance where the sanctity of life is central to the content of the release, brief, or case, the item was coded as “3.”

❖ 4 – Christmas

I coded items as “4” when the issue at hand had to do with defending a government’s, individual’s, or other entity’s claim to display or otherwise publicly acknowledge Christmas and the Christmas season. Such instances could include a student being told s/he could not pass out Christmas cards during school or a city being sued for the erection of a nativity display. Additionally, instances where an organization targeted a private business or city for *not* referencing Christmas were coded as “4.” This code is basically as an extension of code “1,” but with a sole emphasis on Christmas-related speech, action, and symbols.

Items coded as “4” include:

ACLJ: City of Chicago Guilty of Religious Discrimination for Shunning "The Nativity Story" at Christmas Festival (ACLJ Press Release, 11/28/2006)

New Jersey school stamps out references to Christmas (ADF Press Release, 12/19/2005)

Liberty Counsel Releases “Naughty and Nice” List of Retailers (LC Press Release, 11/24/2010)

Firehouse's "Happy Birthday Jesus" Sign Sparks Debate (TMLC Press Release, 12/17/2007)

In any instance where there is a reference to Christmas (either defending those wishing to publicly acknowledge it or attacking those shying away from doing so), the item was coded as “4.”

❖ 5 – Other speech

I coded items as “5” when the issue at hand had to do with speech, expression, or viewpoint discrimination, while at the same time not fitting into the other speech-related codes in this scheme.

Items coded as “5” include:

U.S. Supreme Court Rules in Favor of Free Speech in Funeral Protest Case (LC Press Release, 3/2/2011)

Conservative Radio Giant Michael Savage Joins with TMLC to Challenge Fairness Doctrine (TMLC Press Release, 2/18/2009)

ACLU Demands NYC Permit Showing 9-11 Documentary, or Face Possible Lawsuit (ACLU Press Release, 7/28/2011)

Adams v. Trustees of the University of North Carolina-Wilmington (ADF Sponsored Case, UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, 640 F.3d 550)

Religious speech and pro-life speech were not included in this category; both of these issue areas have their own code. But in any other instance where there was a defense of or attempt to regulate a speaker’s conduct or action, the item was coded as “5.”

❖ 6 – Obscenity

I coded items as “6” when the issue at hand had to do with obscenity, construed very broadly. Such instances may include issues involving pornography, adult nightclubs, television censorship, sex education in schools, and the like. I considered coding each of these items as “5” (for “Other Speech”), but ultimately decided against it for two reasons: to preserve the variation in the *kind* of speech being propagated; and because not all of the instances coded as “6” had to do with speech.

Items coded as “6” include:

Will the Supreme Court Help Communities Defend Themselves from Sexually Oriented Businesses? (ADF Press Release, 12/16/2003)

The Battle Against Internet Child Pornography (NLF Press Release, 4/5/2001)

ACLU Defends Ban on Television Indecency in Supreme Court Filing (ACLU Press Release, 9/14/2011)

Parents Ask Ninth Circuit to Rehear Sex Survey Case (LC Press Release, 11/29/2005)

In any instance where there is a reference to obscenity (in the ways described above, to name a few) and the defense of children or community standards in the face of obscenity, the item was coded as “6.”

❖ 7 – Other (legal)

I coded items as “7” when the issue at hand as legal in nature, but did not fit with any of the codes described above. These instances included cases involving national security issues (especially the “War on Terror”), releases describing challenges to the Patient Protection and Affordable Care Act that did not explicitly mention religious liberty violations in the law, defense of Arizona’s controversial immigration law, and the like. This code also captured cases and instances involving Islam; I did not code such items as “1” since they were not described in the same positive terms as Christianity was in those items, and were rather examples of Islam being challenged in various formats.

Items coded as “7” include:

ACLJ to Represent Members of Congress in Urging SCOTUS to Uphold Constitutionality of AZ Immigration Law (ACLJ Press Release, 12/12/2011)

NH court orders home-schooled child into government-run school (ADF Press Releases, 8/26/2009)

Federal Court of Appeals Strikes Down ObamaCare’s Individual Mandate (LC Press Release, 8/12/2011)

Sharia Law Gains Foothold in US—Federal Judge Upholds Government Funding of Islam (TMLC Press Release, 1/19/2011)

In any instance where there is a reference to a legal issue not related to any of the codes outlined above, the item was coded as “7.”

❖ 8 – Other non-legal

I coded items as “8” when the issue at hand had to do with an overtly political issue, an event or announcement sponsored by the issuing organization, and the like; no sponsored cases or amicus briefs were coded in this way, since they are all inherently legal in some fashion. In order for an item to be coded “8,” no legal case or related discussion was present. Thus, only in the organizations’ press releases could a topic be non-legal in nature, so only in press releases is data coded as “8.”

Items coded as “8” include:

ADF debuts ‘ADFmedia.org’ to meet rapidly changing needs of 21st century journalists (ADF Press Release, 10/1/2009)

ACLJ says Senate Questionnaire Shows Harriet Miers Uniquely Qualified for Seat on Supreme Court of the United States (ACLJ Press Release, 10/18/2005)

Admiral Jeremiah A. Denton Named Chairman Of The Thomas More Law Center's Citizens Advisory Board (TMLC Press Release, 5/8/2007)

Liberty Counsel Unveils the Adopt a Liberal™ Prayer Program (LC Press Release, 10/5/2009)

In any instance where there is a lack of reference to a legal issue and an emphasis on solely political or self-promotional content, the item was coded as “8.”

Detailed Coding

In addition to the eight category coding scheme described above, I also broke down codes 1, 2, and 3 into two categories each in order to capture more variation in these broader codes. I did this after coding each item using the simple scheme described above. Each item, therefore, is assigned two codes: one from the simple scheme, and one from this more detailed scheme (no item was given two codes from the same scheme).

This more detailed coding scheme is as follows:

- ❖ 1 – Religious freedom/free exercise
- ❖ 2 – Establishment/Christian heritage
- ❖ 3 – Pro-family speech
- ❖ 4 – Same-sex marriage/family/gender
- ❖ 5 – Pro-life speech
- ❖ 6 – Other pro-life/contraception
- ❖ 7 – Christmas
- ❖ 8 – Other speech
- ❖ 9 – Obscenity
- ❖ 10 – Other (legal)
- ❖ 11 – Other (non-legal)

This more detailed scheme highlights variation in three of the most popular codes, while at the same time preserving the overall structure and spirit of the original coding scheme. Each item was only coded once (that is, an item was not given more than one code). Only codes 1, 2, 3, 4, 5, and 6 are unique to this detailed coding scheme; the other codes, their descriptions, and their examples can be found under the simple coding scheme. Thus, I now list the criteria by which these six expanded codes were measured, as well as provide examples of each code taken from my collected data (I present only the headlines/case names as examples; the text that bolsters each item's coding decision is available by request):

- ❖ 1 – Religious freedom/free exercise

I coded items as “1” when the issue at hand had to do an individual's or group's religious liberty, speech, or actions. Basically, items coded as “1” include instances of individuals attempting to practice their faith in the fashion they feel compelled to do so, from children in schools (including broader Equal Access cases) to those evangelizing in public.

Items coded as “1” include:

Christian Pastor’s Free Speech Victory against City of Dearborn (TMLC Press Release, 5/26/2011)

Second Circuit says church wins right to continue meeting in NY City public school building (ADF Press Release, 6/6/2003)

Police Back Away From Threats To Arrest Christians For Publicly Sharing Their Faith (LC Press Release, 3/30/2007)

ACLJ Demands CO School Permit Student to Wear Cross; Warns School Not to Violate Student's 1st Amendment Rights (ACLJ Press Release, 10/8/2010)

In any instance where the central facet of the source had to do with an individual or group’s ability to express his/her/their faith, the item was coded as “1.”

❖ 2 – Establishment/Christian heritage

I coded items as “2” when the issue at hand had to do a government establishment of religion in some way (including the constitutionality of 10 Commandments monuments, the legality of a cross on public land, and the like), as well as references to America’s Christian heritage in terms of the pledge of allegiance or patriotic displays from public officials or in public spaces. Instances of school children desiring to pray in class would not be coded as “2,” but instances of a school adopting a moment of silence would be coded as such.

Items coded as “2” include:

ACLJ: Appeals Court Decision Upholding Constitutionality of Pledge of Allegiance in NH Schools "Significant and Sound" (ACLJ Press Release, 11/14/2010)

Let's Protect the Ten Commandments (NLF Press Release, 5/11/2004)

TMLC Files Brief on Behalf of War Heroes Opposing ACLU’s Efforts to Destroy Mt. Soledad Cross (TMLC Press Release, 4/2/2009)

Federal court tosses suit backed by ACLU against Arizona tuition tax credits (ADF Press Release, 3/24/2005)

In any instance where establishment of religion (broadly understood and construed) or the United State’s Christian heritage or history was a primary focus of the detailed effort, the item was coded as “2.”

❖ 3 – Pro-family speech

I coded items as “3” when the issue at hand had to do with speech, action, or symbols opposing homosexuality or supporting the traditional conception of the family. Items reacting to specific legislation or judicial rulings on homosexuality or same-sex marriage were not coded as “3,” nor were items clearly invoking a religious basis for opposing homosexuality or supporting the traditional family (the framing and rhetoric utilized by the CCLO becomes critical here, as religious speech dealing with homosexuality would be coded as “1”).

Items coded as “3” include:

Thomas More Law Center Files Brief Supporting Right of Sea Scouts To Exclude Gays And Atheists (TMLC Press Release, 9/27/2006)

ADF to appeal N.M. commission’s ruling against Christian photographer (ADF Press Release, 4/9/2008)

Liberty Counsel Defends Christian Businessman Ordered to Duplicate Homosexual Videos (LC Press Release, 5/2/2006)

TMLC’s West Coast Regional Director Mobilizes Protest of “Drag Show” Scheduled Tomorrow at His Catholic Alma Mater (TMLC Press Release, 4/10/2012)

In any instance where there is a mention of defending or supporting speech or action in the pro-family tradition (including but not limited to homosexuality and same-sex marriage), the item was coded as “3.”

❖ 4 – Same-sex marriage/family/gender

I coded items as “4” when the issue at hand had to do with same-sex marriage, unions, or activity, the provision of government benefits to homosexuals, redefining traditional conceptions of the family and gender, and the like. Items dealing with speech, protests, or other actions related to (and most likely opposed to) homosexuality were coded as “3,” not “4.” Only items mentioning legal attempts to provide homosexuals with new rights or benefits were coded as “4.” Additionally, other issues involving non-traditional conceptions of the family and gender were coded as “4.”

Items coded as “4” include:

California Judge Refuses to Stay Prop 8 Marriage Ruling (LC Press Release, 8/12/2010)

The Battle Against Homosexual Marriage (NLF Press Release, 5/22/2001)

Perry v. Schwarzenegger (ADF Sponsored Case, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 2009 U.S. Dist. LEXIS 55594)

ACLJ Joins Legal Battle to Save Marriage in California (ACLJ Press Release, 11/22/2005)

In any instance where there is an emphasis on same-sex marriage or partnerships, or anything pertaining to homosexuality not falling under the guidelines of code “3,” the item was coded as “4.”

❖ 5 – Pro-life speech

I coded items as “5” when the issue at hand had to do with speech, action, or symbols opposing abortion or supporting a pro-life perspective. Items reacting to specific legislation or judicial rulings on the legality of abortion were not coded as “5.” Only items specifically dealing with a viewpoint on abortion or life (including defending the rights of those picketing or protesting outside abortion clinics) were coded as “5.”

Items coded as “5” include:

Victory for California Middle School Student: Pro-Life T-Shirt is Protected Free Speech (TMLC Press Release, 8/17/2010)

ACLU Files Federal Suit Challenging Constitutionality of NYC Law Targeting Crisis Pregnancy Centers (ACLU Press Release, 3/24/2011)

Wayne State University denies funds, access to pro-life student group (ADF Press Release, 7/24/2008)

ACLU Ends Legal Challenge Against Ohio "Choose Life" License Plate (LC Press Release, 9/20/2006)

In any instance where there is a mention of defending or supporting speech or action in the pro-life tradition (including but not limited to abortion), the item was coded as “5.”

❖ 6 – Other pro-life/contraception

I coded items as “6” when the issue at hand had to do with life, broadly construed. This did not include speech supportive of life or opposed to abortion; these items were coded as “5.” But any other reference to life, including legislation on the legality of abortion, an instance of a nurse refusing to participate in an abortion-related procedure, or a pharmacist refusing to issue prescriptions to contraceptives, were coded as “6.”

Items coded as “6” include:

Menges v. Blagoevich (ACLU Sponsored Case, UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF ILLINOIS, SPRINGFIELD DIVISION, 2006 U.S. Dist. LEXIS 37770)

Partial Birth Abortion Statement by the President (TMLC Press Release, 4/19/2007)

No choice: Doctors forced to perform abortions or else? (ADF Press Release, 1/22/2009)

ACLJ Gets Win for Pro-life Pharmacy Owners in Illinois After Lengthy Legal Battle (ACLJ Press Release, 4/5/2011)

In any instance where there is a reference to abortion (excluding speech or protests), euthanasia, or any other mention of life, the item was coded as “6.”

APPENDIX B

INTERVIEW MATERIALS

CONSENT TO PARTICIPATE IN RESEARCH

I, _____, agree to participate in this research project conducted by Daniel Bennett, a doctoral candidate in the Department of Political Science at Southern Illinois University in Carbondale, IL.

I understand that the purpose of this study is to examine how Christian legal advocacy groups participate in the American political process, to explore the differences among these groups, and to investigate how these differences affect these groups' advocacy efforts. I also understand this study will result in a doctoral dissertation, and possibly in future peer-reviewed publications.

I understand that my responses to the questions in this interview will be attached to my name. I also understand that I may be directly quoted from this interview, unless I opt out below. If I opt out of being quoted I understand that my name may still be connected to my responses, but without direct quotations. I understand that I will have the opportunity to comment on and verify the accuracy of any direct quotes to be used in this study, should I consent to direct quotations. Any information I provide confidentially or "off the record" will not be kept with my name on it. I understand that this interview will not be audio recorded.

I understand my participation is strictly voluntary and that I may refuse to answer any question at any time. I also understand that if, at any time, I wish to answer a question confidentially, the interview will go "off the record" and my response will not be noted. I also understand that my participation may last as long as 60 minutes, and may last longer with my permission.

I understand questions or concerns about this study are to be directed to Daniel Bennett (bennettd@siu.edu) or to Mr. Bennett's dissertation chair, Dr. J. Tobin Grant (grant@siu.edu).

I have read the information above and any questions I asked have been answered to my satisfaction. I understand a copy of this form will be made available to me for the relevant information and phone numbers.

"I agree _____ I disagree _____ to be quoted in this study."

Participant signature

Date

This project has been reviewed and approved by the SIUC Human Subjects Committee. Questions concerning your rights as a participant in this research may be addressed to the Committee Chairperson, Office of Sponsored Projects Administration, SIUC, Carbondale, IL 62901-4709. Phone (618) 453-4533. E-mail: siuhsc@siu.edu

E-MAIL SOLICITATION REQUEST FOR CCLO LAWYERS

From: Daniel Bennett (bennettd@siu.edu) Subject: Research request

Dear _____:

I am a doctoral candidate in the Department of Political Science at Southern Illinois University in Carbondale, IL.

Your e-mail address was obtained via _____. I am writing to request time to interview you concerning research I am working on. I am studying the role of Christian legal advocacy groups in the American political process, the differences among these groups, and how these differences affect these groups' advocacy efforts. As part of this study, I hope to interview lawyers affiliated with a variety of Christian legal advocacy groups. These findings will subsequently be published in my dissertation, and possibly in future peer-reviewed publications.

I am asking you to participate in this study because of your involvement with one of these organizations and your experience in litigation important to these groups. Specifically, I am interested in your thoughts on the community of Christian legal advocacy organizations and your role in this community.

I would like to interview you, CHOOSE ONE: most likely over the phone OR hopefully in person. Your name will be connected with your responses unless you choose to go "off the record," at which point any response you give will not be noted. I will not be recording these interviews, and will only be taking notes. You will have the opportunity to comment on and verify the accuracy of any direct quotes to be used in this study, should you consent to direct quotations. Only people directly involved with this project will have access to the materials from your interview, and these materials will be kept locked in my files for a period of three years after completion of the study.

The interview should take no longer than 60 minutes, but may last longer with your permission. If you are willing to be interviewed, please email me and I will be in touch to set up a time for the interview.

Questions about this study can be directed to: Daniel Bennett, Ph.D. Candidate, Department of Political Science, Southern Illinois University, Carbondale, IL, 62901-4501. I can also be reached via email at bennettd@siu.edu. Questions or concerns about this study can also be directed to my dissertation chair, Dr. J. Tobin Grant (grant@siu.edu).

If you are unwilling to participate in this research, please indicate in a return email stating that you do not wish to participate, and I will not contact you again. If I do not hear from you, I will contact you one more time in approximately two weeks. After that, I will not contact you again.

Thank you for taking the time to assist me in this research.

Best wishes,

Daniel Bennett

This project has been reviewed and approved by the SIUC Human Subjects Committee. Questions concerning your rights as a participant in this research may be addressed to the Committee Chairperson, Office of Sponsored Projects Administration, SIUC, Carbondale, IL 62901-4709. Phone (618) 453-4533. E-mail: siuhsc@siu.edu

INTERVIEW PROTOCOL

Thank you very much for taking the time to talk with me.

My questions are mostly about your work for CCLO and your perception of the community of Christian legal advocacy organizations. If at any point I ask a question that you don't believe you should answer because it may affect the outcome of a current case, or you simply don't feel comfortable answering it, please just note that and we will move on.

I want to reiterate what we just went over in the consent form: if at any point you want to go "off the record" and have your response be confidential, I will close my notebook and your response will not be noted.

1. Tell me about why you went into practicing law.

Follow-up:

How has your faith influenced your vocation as an attorney?

2. Which organizations have you primarily worked with? Tell me about how you first heard of CCLO(s). What were your first impressions of their work?
3. What initially made you want to work for CCLO as a lawyer?

Follow-ups:

Had you had experience working with other Christian legal advocacy groups in the past? Why did you move to where you are now?

What is it about the mission of CCLO that was more appealing than the missions or goals of other organizations?

4. Tell me a little about your role as an attorney with CCLO.

Follow-up:

Describe for me a typical day as an attorney with CCLO.

5. Whom or what do you represent at CCLO?

Follow-up:

How does this differentiate CCLO from other Christian legal advocacy organizations?

6. What are the primary issues that CCLO focuses on?

Follow-up:

How does this focus set CCLO apart from other related organizations?

7. Please tell me about CCLO's recent successes. What about instances where CCLO has been unsuccessful?

Follow-up: What were the primary factors contributing to these successes (and lack of successes)?

8. Where do you see CCLO's position in the larger community of Christian advocacy organizations?

Follow-up:

Where does CCLO find its niche in the community of Christian legal advocacy groups?

8. Do you see other groups involved in Christian legal advocacy more as collaborators or as competitors?

Follow-up:

What implications does this pose for Christian legal advocacy?

9. Have you seen any evidence of divisions or rivalries among organizations in the Christian legal advocacy community?

Follow-ups:

IF NO: can you see divisions or rivalries developing in the future? Why/why not?

IF YES: are these rivalries good or bad for the Christian legal advocacy community, or for the Christian advocacy community on the whole? Why?

10. What is better for the Christian legal advocacy community: unanimity or diversity?

11. Concerning the role of Christian legal advocacy organizations in the American political process or the place of CCLO in that community, can you think of a question I didn't ask, but should have?

12. Finally, can you think of one or two people who would be appropriate and willing to speak with me as part of this study?

I may need to follow-up with you for clarifications, is that all right? Would it be better to do this via email or telephone?

Thank you for your time.

INTERVIEW PARTICIPANTS AND AFFILIATIONS¹

William Becker – Affiliated Attorney (ADF, TMLC)

James Bopp, Jr. – Affiliated Attorney (ADF)

Matt Bowman – Senior Legal Counsel, ADF

Kevin Clarkson – Affiliated Attorney (ADF)

Kim Colby – Senior Counsel, CLRF

Larry Crain – Former Senior Counsel, ACLJ

Daniel Dalton – Affiliated Attorney (ADF)

Kelly Ford – Affiliated Attorney (ADF)

Leah Farish – Affiliated Attorney (ADF)

Steven Fitschen – President, NLF

Herb Grey – Affiliated Attorney (ADF, CLRF, LC)

Sharee Langenstein – Affiliated Attorney (ADF)

Jordan Lorence – Senior Counsel and Senior VP of the Office of Strategic Initiatives, ADF

Michael Millen – Affiliated Attorney (ADF, LC)

Frank Mylar – Affiliated Attorney (ADF)

Todd Nielsen – Affiliated Attorney (ACLJ)

Greg Scott – Senior Director of Media Relations, ADF

Erik Stanley – Senior Legal Counsel, ADF

Mathew Staver – Founder and Chairman, LC

Steve Taylor – Affiliated Attorney (ADF, LC)

Timothy Tracey – Former Legal Counsel, ADF, CLRF

¹ Affiliations and titles are based on attorney self-identification. In this Appendix, I only list CCLO affiliations.

VITA

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Daniel R. Bennett

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George Fox University
Bachelor of Arts, Political Science, April 2008

Special Honors:

Pass with Distinction, Preliminary Examination in American Politics (February 2012)

Pass with Distinction, Preliminary Examination in Public Law (September 2011)

Dissertation Title:

Organizations, Religion, and Legal Mobilization: The Case of Christian Conservative
Legal Advocacy

Major Professor: J. Tobin Grant