

Faith Organizing, Party Politics, and the exceptionalism of abortion in the Harper Era¹

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1.0 Introduction

Can the Conservative Party of Canada (CPC) maintain the support of its social conservative base while largely resisting their demands to restrict access to abortion services? During the 2011 federal election, CPC Leader and Prime Minister Stephen Harper restated his position that a Conservative government would not move on the issue, announcing that: “as long as I am Prime Minister, we will not reopen the debate on abortion. We will leave the law as it stands” (CBC 2011). Despite these clear words, following the election backbench government Members of Parliament (MPs) repeatedly attempted to raise the issue of the rights of the “unborn” through a series of private members’ initiatives. In response, the government actively worked to suppress any discussion of the subject, ultimately leading one pro-life Conservative MP to file a question of privilege with the Speaker arguing that his rights as an MP had been violated by his own party whip.

The CPC was formed in 2003 through a merger between the long established centre-right Progressive Conservative Party and the upstart Canadian Alliance, which was further right, populist, and more socially conservative (Rayside, 2011). In its early years, social conservatives were as an influential force in CPC policy decisions, and the party was frequently pilloried in the media for the “combination of unrestrained populism and ill-advised public comments by MPs” on abortion, homosexuality, and ethnic minorities (Norquay, 2013). Discussions of Harper’s “hidden agenda” were a common refrain among the party’s critics and opponents. In response, the CPC soon took action to temper this social conservative image. In particular, it worked to curb embarrassing statements by its candidates, and in 2005 CPC members voted to remove the goal of tightening restrictions on abortion from its policy handbook (Farney, 2012; Hausman and Rankin, 2009). These changes contributed to a broader improvement in the party’s electoral fortunes, and in the 2006 election the CPC was able to form a minority government. After the victory, the Harper government took additional steps to consolidate its gains, in part by further diminishing the policy influence of social conservatives.

Yet rather than a sign of total marginalization, Farney (2012) contends that this reduced influence reflects the adoption of an incrementalist approach by social conservatives, who now recognize that they cannot pursue the rapid implementation of their desired policy changes at the expense of the CPC’s electoral overall viability. On many issues such incrementalism appears to have paid off, with the Conservative government pursuing a range of policies that are favoured by social conservatives across a range of policy domains (Malloy, 2013). These include an extensive series of “tough on crime” legislation, the creation of the Office of Religious Freedom, and staunch support of Israel. Indeed, even on the sensitive issue of gay rights, social conservatives have seen some victories, such as the withdrawal of government support for Toronto’s Gay Pride Parade and the defeat of a bill to protect the rights of transgendered Canadians. Such measures are seen to secure the continued support of social conservatives without substantially harming the party’s ability to appeal to more centrist constituencies.

However, despite some initial moves in the incrementalist direction, the government has become increasingly resistant to any change on the issue of abortion, leading to the emergence of open hostility between the party leadership and pro-life MPs starting in 2012. This paper draws upon interviews with parliamentarians, journalists, and the leaders of religious organizations to

examine why the CPC's efforts to manage the abortion issue have been increasingly unsuccessful. Specifically, we explore how these efforts have played out in three distinct areas: the funding of maternal health programs in developing countries; a series of private members initiatives introduced by backbench Conservative MPs relating to abortion or the protection of fetuses; and the regulatory approval of the abortion drug Mifepristone, also known as RU-486.

We find that while the CPC initially supported pro-life initiatives, especially in the area of international assistance, the negative public reaction caused by this support has since led the party leadership to oppose not only any further changes to the status quo, but even any discussion of the abortion issue. Specially, beginning in 2008 and particularly since the 2011 federal election, the Harper government has become increasingly hostile to party members' anti-abortion activism. This hostility has in turn riled anti-abortion backbenchers and social conservative supporters. Such groups were willing to limit the abortion debate during the two Conservative minority governments, but have become increasingly resistant to discipline since the party formed a majority in 2011. Importantly, this rising frustration results not from the lack of government measures relating to abortion, but rather from the government's efforts to prevent backbench Conservative MPs from beginning their own debate on the issue via private member's initiatives. In particular, social conservatives appear to believe that while they have adopted an incrementalist strategy of introducing measures only indirectly related to abortion (e.g. calling for a committee study on when life begins), the government has failed to respond in kind by allowing more debate. Consequently, some social conservatives within the CPC were no longer willing to accept the maintenance of electoral success at the expense of ignoring their preferred policy changes, leading to public conflict.

However, after reaching a boiling point in 2013, there are signs that the turmoil over the abortion issue may be receding in favour of a return to the incrementalist approach. Indeed, the government's commitment to the status quo on abortion may actually offer some benefits to social conservatives by leading it to resist new measures that would increase access to abortion services, such as the approval of RU-486. At the time of writing, the regulatory process to license the drug for sale in Canada had already stretched for nearly 900 days – three times as long as the standard approval process (Grant, 2014; Payton, 2015). Therefore, while social conservatives are increasingly displeased with the Conservative government's failure to restrict abortion services in Canada, the party's resistance to policy change on the subject may prevent any expansion as well, allowing for the development of common ground between the two sides.

2.0 Past research on faith communities and the Conservative Party of Canada

The relationship between social conservatives and the CPC has attracted considerable attention from a range of authors. The most prominent study to date was conducted by journalist Marci McDonald, who stresses that social conservatives, and particularly a faction of militant "Christian nationalists," have gained considerable influence within the party. Furthermore, she argues that this group has used this position "to reshape foreign policy, the public service and the courts" and to pursue "a range of socially conservative policies that it regards as prerequisites to remaking Canada as a distinctly Christian nation" (2010, 10). McDonald also draws substantial attention to the socially conservative aspects of Prime Minister Harper's own Christian faith.

In contrast, most academics are much more circumspect regarding the role of social conservatives within the CPC. Farney and Rayside (2013) present the new CPC as an ideologically driven coalition that is united primarily around shared commitment a smaller government and greater freemarket individualism. This coalition contains a number of disparate elements, including “neoliberals, devotees of Leo Strauss, libertarians, the religious right, and advocates of family values” (Brodie and Bakker, 2008: 115). However, rather than playing equal roles in the party’s public appeal, the economic policies favoured by the neoliberals and fiscal conservatives are argued to be much more important to its electoral success. This is especially true among marginal voters, and especially women, “who would be scared off by the socially-conservative agenda...” (Hausman and Rankin, 2009: 251). Similarly, Farney (2012) argues that while social conservatives are still accepted in the CPC, their influence within the party has diminished as their electoral appeal has declined, particularly following the passage of Canada’s same-sex marriage legislation. As he writes:

...social conservatives were defeated on a core issue [i.e. same sex marriage] and did not attract the voters to the party they had hoped to, but the very reasons for their decline point to their achievement of ‘normal’ status. No longer is their role minimized because they are seen to be illegitimate. Rather, their prominence within the party, like that of any other group, is dependent on their ability to achieve political success (2012: 115).

Farney contends that social conservatives have not reacted angrily to their declining role within the CPC. Instead, they have deliberately pursued a conciliatory strategy that seeks to maximize what influence they have by identifying those changes they can reasonably obtain, and accepting that others lie beyond their reach:

No longer do social conservative elites in the party feel it appropriate to articulate their views at any cost, nor do they see the articulation of principles as their primary purpose in politics. Instead, the vision they pursue is one that seeks incremental change in their favour, but only when the pursuit of that change does not endanger the party’s chances of staying in office. They have come to believe that they ought to focus their attention primarily on goals they have a chance of achieving (Farney, 2012).

There are many instances from the Conservative’s time in office since 2006 where this incremental approach appears to have borne fruit. On the question of sexual diversity, signs of social conservative influence can be found in a number of government decisions, such as Prime Minister Harper’s refusal to attend the 2006 International AIDS Conference in Toronto, as well as the withdrawal of federal funding from Toronto’s annual Gay Pride Parade (Rayside, 2011). Harper and the vast majority of Conservative MPs also recently voted against a bill that would have added protections for transgender rights to the *Canadian Human Rights Act* (The Canadian Press, 2013b). While the bill did pass the Commons with support from some government rebels, Conservative Senators passed a series of amendments that not only undermine the bill’s provisions, but also make it very unlikely to receive final approval before the next election in 2015 (McGregor, 2015). Similar examples also can be found in other policy fields, such as the

CPC's new tax measures that benefit traditional single-earner households, or their decision to raise the age of sexual consent from 14 to 16 (Malloy, 2013).

These measures should not be taken as a sign that social conservatives would necessarily approve of all government actions. For instance, former Conservative Foreign Affairs Minister John Baird conducted extensive international advocacy on the issue of LGBT rights (Galloway, 2011), and the government responded quickly to concerns regarding access to divorce for foreign same-sex couples who had married in Canada (Makin, 2012). The government also suspended international development funding to a Canadian Christian organization after homophobic statements were found on its website (The Canadian Press, 2013a). On balance, however, social conservatives have made far more progress towards achieving their goals through these incremental changes by the CPC than would have been possible under a more left-leaning government. Moreover, Malloy (2013) highlights that on several instances where the government was willing to "polarize" an issue so as to better signal to its support of socially conservative values.

3.0 Context of abortion politics in Canada

3.1 Legal status of abortion

Canada is unique among advanced industrial countries in that it lacks any legal framework governing the provision of abortion services. In the 1988 case of *R v. Morgentaler*, the Canadian Supreme Court struck down the existing provision of the *Criminal Code* that had made abortion illegal unless a committee of three doctors first certified that the procedure was medically necessary. The court found that these restrictions violated women's right to security of the person under the *Canadian Charter of Rights and Freedoms*. In response, the Progressive Conservative government of Prime Minister Brian Mulroney introduced a new bill in 1989 that sought to restore some legal restraints on the procedure. However it was narrowly defeated in the Senate, largely on the grounds that the new provisions were not restrictive enough. Since that time, no Canadian government has attempted to introduce a new law.

In the absence of any federal statute, the availability of abortion in Canada is largely determined by the various provincial governments, which have constitutional responsibility for health care. This situation has created a patchwork system, with some provinces making the procedure reasonably accessible, while others keep it tightly controlled. For instance, no surgical abortions are performed in the province of Prince Edward Island. Similarly, the public health care system in the nearby province of New Brunswick will only provide an abortion to women who first obtain documentation from two doctors certifying that the procedure is medically necessary. As such, women in the province seeking an elective abortion must turn to a private clinic. It should also be noted that Canada's size means that abortion services can be difficult to obtain in rural areas, even in those provinces that have fewer formal restrictions.

3.2 Abortion activism and the Conservative Party

Securing restrictions on access to abortion has long been a priority for conservative faith communities in Canada. A wide range of religious organizations conduct advocacy on the issue,

including most notably the Campaign Life Coalition, the Canadian Centre for Bioethical Reform, and the Association for Reformed Political Action, which operates the “We Need a Law” campaign. Together these organizations span both the Protestant and Catholic sides of the Christian spectrum. The Campaign Life Coalition also holds an annual “March for Life” rally at the Parliament buildings. The 2013 edition reportedly attracted some 25,000 people (Campaign Life Coalition, 2013).

Despite this activism by faith communities, the CPC has no official position on abortion. Instead, in March 2005 the party convention passed a resolution stating that “a Conservative government will not initiate or support any legislation to regulate abortion” (Hausman and Rankin, 2009: 242). This commitment was reiterated during the 2006 election campaign, with Harper stating that “A Conservative government will not be bringing forward, will not be supporting, and will not be debating the abortion laws in the country” (CBC Radio, 2012). He again made the point in the 2008 campaign as well, declaring “I have been clear throughout my entire political career. I don’t intend to open the abortion issue. If I haven’t in the past, I’m not going to in the future, and I simply, I simply have no intention of ever making that a focus, the abortion question a focus, of my political career” (CBC Radio, 2012).

Yet as Hausman and Rankin (2009) point out, the party’s commitment not to introduce any legislation does not necessarily prevent backbench Conservative MPs from taking independent action on the subject. Since private members’ bills are not government legislation, and therefore not matters of confidence, they are typically considered to be free votes for all MPs. Furthermore, the CPC officially allows its MPs free votes on conscience issues, such as abortion (Farney, 2012). As such, private members’ bills would appear to provide an excellent way for individual Conservative MPs to pursue their personal desire to restrict access to abortion while not violating the party (and party leader’s) commitments not to introduce legislation on the issue. The introduction of such initiatives is would also be a continuation of established practices, with several Conservative backbenchers having brought forward a number of private members’ bills pertaining to abortion during the party’s time in opposition (Hausman and Rankin, 2009).

Indeed, several authors further suggest that the CPC has an unofficial policy of using private members’ bills as a way to pursue socially conservative causes. For instance, Hausman and Rankin draw on the example of C-484 (described further below) to argue that the government’s main strategy for “keeping its pro-life caucus majority happy” was to give “backbenchers... a fairly free reign in introducing items but then in blocking final passage of those items (2009: 242). Such suspicions are also reinforced by an email that CPC National Chairman Don Plett reportedly sent prior to the 2006 election indicating that a private members’ bill would likely be used to bring forward anti-abortion legislation if the party formed government (Abortion Rights Coalition of Canada, 2006).

4.0 Funding for abortion services through Canada’s foreign aid spending

4.1 The G8 Initiative on Maternal, Newborn, and Child Health (Muskoka Initiative)

Foreign aid spending is where social conservatives are seen to have had the most influence on the issue of abortion. Indeed, one of the most frequently cited examples of Harper’s strategy of

appeasement with social conservatives was the decision to block funding for abortion services in the G8's 2010 Initiative on Maternal, Newborn, and Child Health, also known as the "Muskoka Initiative" for the region in Ontario where the G8 summit was held. Our research indicates that while the media and opposition saw the exclusion of abortion as a planned concession to social conservatives, the actual decision making was much more chaotic. However, once the issue of abortion was raised in the context of the program, the government refused to back down.

The Muskoka Initiative was originally proposed in a letter to the Prime Minister by a coalition of civil society organizations, including UNICEF Canada, Save the Children, CARE Canada, and World Vision (Galloway, 2010). Sold as a "signature initiative" for the Conservative government as it hosted the G8 meeting, the nonprofit coalition believed it would be politically appealing to Harper both domestically and internationally. On the domestic front, one civil society strategist close to the file put the argument this way: "if it was true that his support base was largely male, largely interested in hard security issues – [then] a maternal and child health piece would allow him to speak to another side of the potential support base. So appeal to women, appeal to mothers" (Confidential interview, May 2012). Internationally, less progress had been made towards the Millennium Development Goal (MDG) for maternal health than several of the others. A literal "motherhood" initiative therefore had the potential to appeal widely to other governments and soften Canada's increasingly hard image on the world stage.²

When the Muskoka Initiative was announced in January 2010, no statement was made as to whether abortion services would be supported. Within days of the announcement, the opposition Liberal Party began to ask if abortions would be covered. As party leader Michael Ignatieff stated: "If we're going to improve maternal health and child health around the world, women need access to the full gamut of reproductive health services" (Clark, 2010c). The Conservatives initially remained silent on the issue for nearly a month, until Foreign Minister Lawrence Cannon stated that the G8 Initiative would "not deal in any way, shape or form with family planning" (Clark, 2010a). However, the next day the Prime Minister quickly clarified that the CPC would not rule out condoms, but that the Initiative was not intended to open the abortion debate (Ibbitson, 2010).³

Reactions to the Initiative's restrictions on abortion were sharply divided. The governments of both the United States and Great Britain condemned the policy. Canadian aid agencies also vigorously protested the move. However, a meeting of civil society organizations was soon advised by pro-choice Conservative Senator Nancy Ruth that their best strategy was to "shut the fuck up" in the short term and hope for revisions in the final G8 communiqué (Clark, 2010b). In contrast, anti-abortion activists were thrilled with the Muskoka Initiative, and lauded the decision at the annual March for Life ("Anti-abortion activists praise Harper's maternal-health stand," 2010). By the time the G8 summit began, the controversy was in full swing. Ultimately, the final text of the Initiative agreed to in Huntsville allowed for leeway on abortion amongst the partners.

² The Harper government had been leading a high-profile campaign to win a seat on the United Nations' Security Council (Ibbitson, 2010).

³ A family planning motion put forward by the Liberals was voted down by the Conservatives on the grounds that it was "anti-American". It stated: "the Canadian government should refrain from advancing the failed right-wing ideologies previously imposed by the George W. Bush administration in the United States, which made humanitarian assistance conditional upon a 'global gag rule' that required all non-governmental organizations receiving federal funding to refrain from promoting medically-sound family planning."

Though Canada would not actively support abortion services, its partners were free to do so. The Canadian government has since maintained this ban on international funding for abortion services despite ongoing criticism from domestic and foreign sources (Blanchfield, 2014; Mackrael, 2013, 2014).

However, while the exclusion of abortion services from the Muskoka Initiative appeared to be custom-made to appease social conservatives, several CPC activists indicated that the question of abortion was simply not discussed in the early planning stages. Instead, the actual decision was haphazardly made after funding was already committed. As one activist put it:

I think their original plan when the PM rolled out the expanded programs hadn't thought this one through, how this would tie into abortion... I don't think when they rolled out maternal health care, whoever was handling this issue, had no grasp of the abortion politics on either side. Someone put a proposal [forward], it would have looked good, and they said, 'Ah, backdrops of the PM and third world children, you know – third world stuff, how Canada cares' (Confidential interview, May 2012).

Others offered a slight variation of this account, indicating that the Muskoka Initiative was farsighted in its original approach to abortion, but that the restrictions were poorly communicated. "The messaging was wrong," stated one activist, "because the reality is you were dealing with Africa and there are only two countries on the continent that allow abortion, period. It was a non-player... So it should have been managed better to let folks know that" (Confidential interview, May 2012).

This view that no discussions regarding abortion services took place in the original planning for the Initiative is supported by the diversity of the civil society groups who were initially involved. In particular, the coalition included Action Canada for Population and Development (ACPD), an avowedly pro-choice organization that was dedicated to the implementation of the Programme of Action adopted at the 1994 International Conference on Population and Development in Cairo (ACPD n.d.; Galloway, 2010). Once the restrictions on abortion funding were announced, ACPD became one of the Initiative's most vocal critics (Clark, 2010b), and it has since merged with several other pro-choice organizations to create a new body known as Action Canada for Sexual Health and Rights.

4.2 Canadian funding for the International Planned Parenthood Federation

Although it may not have originally been planned, social conservatives were very pleased with the treatment of abortion in the Muskoka Initiative. However, other actions taken by the CPC with regard to foreign aid were less well received. A long-term goal of many social conservatives in Canada has been to block government funding for the International Planned Parenthood Federation (IPPF). In November 2009, Conservative MP Brad Trost launched a petition calling on the government to stop any support for the organization, which at the time seeking a renewal of its funding from the Canadian International Development Agency (CIDA) for programs in developing countries (Craine, 2009). Rather than receiving a standard review, the proposal lingered for an extended period with no response. Over a year and a half later during the 2011

federal election campaign, Trost claimed to his supporters that IPPF had been “defunded” by the government (Wherry, 2011b). The Prime Minister’s Office quickly responded that Trost was mistaken and that CIDA was still reviewing the file. Several months later, MP Bev Oda, the Minister responsible for CIDA, signed an order renewing IPPF’s funding, although it was limited only to non-abortion related projects in a set of countries where abortion was illegal (Wells, 2011). The value of the grant was also slashed from \$6 million to \$2 million per year (Bird and Rowe, 2013).

While clearly a substantial reduction, this outcome failed to satisfy anti-abortion activists, who believed that any support for the IPPF would help it to support abortion services, even if only indirectly (Wells, 2011). The decision to renew funding, even with a reduced budget and tight restrictions, also stood in sharp contrast to the Conservative government’s willingness to completely cut support for a variety of other aid groups that have been critical of its policies. For instance, Minister Oda personally overrode the recommendations of CIDA staff in order to deny any new funding to an aid organization that the government felt was too pro-Palestinian (Mackrael, 2010). Therefore, rather than a victory, social conservative activists within the CPC took the renewed funding for IPPF as a sign they must further increase their advocacy. As MP Bard Trost put it: “The battle over [IPPF] continues. Pro-Life politicians have been taught a lesson. The government only responds to Pro-Life issues and concerns when we take an aggressive stance. We will apply this lesson” (Wherry, 2011a).

All told, social conservatives have experienced mixed success in their efforts to change the level of support for abortion services in Canada’s foreign aid. In particular, it is quite puzzling that after excluding support for abortion in the Muskoka Initiative, the government would be unwilling to completely defund the IPPF despite direct pressure from socially conservative MPs. Instead, the experience shows that incrementalist successes through direct policy action by the Harper government grew increasingly difficult to attain following the maternal health storm. As will be demonstrated in the next section, far from signaling a turn in social conservative fortunes on abortion, the Muskoka Initiative has so far been a high-water mark for their effectiveness on the issue.

5.0 Private members initiatives on abortion and fetal protection

5.1 *39th Parliament – 2006 to 2008*

Despite CPC policy pronouncements, the abortion issue has never gone away within the Conservative caucus. Like a specter, it has remained ever present in private members’ motions, anti-abortion rallies, and the Parliamentary Pro-Life Caucus. The first private members’ initiative relating to the protection of fetuses came soon after the Conservative victory in January 2006 (see Table I for a summary of private members initiatives related to abortion introduced by CPC backbenchers). MP Leon Benoit came second in the ballot for private members’ business and used the opportunity to bring forward Bill C-291, which would have imposed punishments on offenders who also harmed a fetus during an attack on woman.⁴ However, the Commons’ Subcommittee on Private Members’ Business ruled the bill to be unconstitutional and therefore

⁴ The order in which private members’ bills are debated at the Canadian Parliament is determined by a lottery at the beginning of each legislative session.

non-votable since it would impose penalties even if the offender did not know the woman was pregnant (LifeSiteNews.com, 2006; Moore, 2006). An appeal to the Committee on Procedure and House Affairs was also unsuccessful. Some pro-life activists contend that the discussion of constitutionality was just a way for the government to bury the bill (Farney, 2012). Notably, just minutes before the appeal was heard the committee received a rushed letter from Justice Minister Vic Toews which supported the view that the Bill was unconstitutional (Canada. Standing Committee on Procedure and House Affairs, 2006).

Table I: List of private members initiatives relating to abortion or the protection of fetuses since the 2006 Canadian general election⁵

Title	Sponsor	First reading	Issue	Progress
C-291	Leon Benoit	May 2006	Would impose “on a person who injures or causes the death of a child before or during its birth... the same punishment that the person would have received had the death or injury occurred to the mother.”	Deemed non-votable
C-484 (<i>The Unborn Victims of Crime Act</i>)	Ken Epp	November 2007	Creating an offence for those who deliberately harm a fetus in an attack on the mother.	Passed second reading and referred to committee
C-537	Maurice Vellacott	April 2008	Creation of legal protection for medical professionals who chose not to conduct procedures which violate their conscience.	Not debated
C-510 (<i>Roxanne's Law</i>)	Rod Bruinooge	March 2010	Making “it an offence for someone to coerce or attempt to coerce a female person to have an abortion.”	Defeated at second reading
M-312	Stephen Woodworth	February 2012	Creation of a parliamentary committee to review “Subsection. 233(1) of the Criminal Code, which states that a child only becomes a human being at the moment of complete birth.”	Defeated
M-408	Mark Warawa	September 2012	Calls on House to “condemn discrimination against females occurring through sex-selective pregnancy termination.”	Deemed non-votable

⁵ Data gathered from the website of the Canadian Parliament (www.parl.gc.ca).

In contrast to C-291, the government initially expressed strong support for the next private members' Bill, C-484 (*The Unborn Victims of Crime Act*), which was introduced by outgoing Conservative MP Ken Epp. Unlike its predecessor, the Bill was limited only to those instances where the offender knew the victim was pregnant, and also specifically excluded "conduct relating to the lawful termination of the pregnancy" (Canada. House of Commons, 2007: 3). When the Bill came to vote at second reading in March 2008, it received massive support from the Conservative caucus, with only four Tory MPs voting against and two abstaining ("Vote #58 on March 5th, 2008," n.d.).⁶ McDonald (2010) notes that pro-life activists were in the House of Commons gallery to cheer on Conservative MPs as they voted for the Bill.

However, the government's support for C-484 quickly evaporated. Despite being referred to committee, no hearings were held before Parliament's summer recess began. In August 2008 the Bill became a political issue in two Quebec by-elections, with women's groups and some doctors arguing that it could lead to "a possible slippery slope to criminalizing abortion" (Campbell, 2008). Similar statements were also made by then Liberal Leader Stephane Dion, who challenged Prime Minister Harper to publicly state his own views on abortion (Campbell, 2008; Gyapong, 2008). These developments appear to have unnerved the government, such that the week after Dion's statements Justice Minister Rob Nicholson held an "unusual, quickly arranged press conference" where he announced the government would pre-empt C-484 by introducing its own legislation (Campbell, 2008). However, rather than creating a separate offence for harm to the unborn, the government bill would only make pregnancy an aggravating factor in sentencing. Nicholson argued the change was necessary to avoid any misinterpretation, and further stated that "The government and the Prime Minister [have] been very clear on this, that we are not reopening the debate on abortion" (Campbell, 2008). Unsurprisingly, the move was widely criticized within the anti-abortion community (Gyapong, 2008).

5.2 40th Parliament – 2008 to 2011

The next private members' measure dealing with abortion to reach the House of Commons was Bill C-510, which was introduced by Rod Bruinooge, Co-Chair of the Parliamentary Pro-Life Caucus (Haussman and Rankin, 2009). The Bill, known as *Roxanne's Law*, would have made it an offence to coerce someone to have an abortion, and was named for Roxanne Fernando, who was murdered by her boyfriend after she refused to terminate her pregnancy (Bruinooge, 2010). In contrast to C-484, the Bill never received any government support. Instead, when C-510 came up for debate in November 2010, the Parliamentary Secretary to the Minister of Justice argued that the proposed offence was already covered by the *Criminal Code* (Petit, 2010). The Bill went on to be defeated at second reading by 178 votes to 91 (Lilley, 2010). Of those opposed, 49 were Conservative MPs, a dramatic increase from the four who had voted against C-484.

5.3 41st Parliament – 2011 to present

After the defeat of C-510, the abortion issue remained dormant until February 2012 when Stephen Woodworth introduced private members' motion (M-312), which called for the Commons to establish a special committee to "review the declaration in Subsection 223(1) of the

⁶ The four voting against were MP Sylvie Boucher, and cabinet Ministers Lawrence Cannon, Gordon O'Connor, and Josée Verner. The two abstainers, Jim Flaherty and Maxime Bernier, were also cabinet members.

Criminal Code which states that a child becomes a human being only at the moment of complete birth” (Canada. House of Commons, 2012). While not proposing to change Canadian law, the motion still received a remarkably harsh reaction from the government. Chief Conservative Whip Gordon O’Connor personally spoke against the motion in the House, giving what one journalist described as “one of the most amazing defences of abortion rights that I’ve heard in the Commons” (Confidential Interview, May 2012). Moreover, according to a Conservative Senator, this rough reception in Parliament was paralleled by a forceful response from the Prime Minister, who warned the party caucus that “If anyone raises this issue of fetal rights again, he will use every power that’s in his possession to stop it” (Confidential Interview, May 2012). Despite these efforts, the vote on Woodworth’s motion in September 2012 still proved to be quite distracting for the government. Although the vote failed by the wide margin of 203 to 91, several Conservative Ministers, and including Rona Ambrose, the Status of Women Minister, were criticized for supporting the proposal (Mackrael, 2012). Questions were also raised about Harper’s ability to control the caucus.

Rather than letting the issue rest, the day after the vote on Woodworth’s motion, Conservative MP Mark Warawa introduced a further motion, M-408, which called on the House to “condemn discrimination against females occurring through sex-selective pregnancy termination” (“MP Mark Warawa Introduces Motion to Condemn Discrimination Against Females Via Sex-Selective Pregnancy Termination,” 2012). As with M-312, the new motion was strongly opposed by the Prime Minister, who instructed cabinet to vote against it (Thompson, 2013). However, such instructions turned out to be unnecessary since the motion was ruled non-votable before it could come up for debate. The Subcommittee on Private Members’ Business justified the ruling on the grounds that health was a provincial jurisdiction and that the issue of abortion had already been discussed during the debate on M-312 (Craine, 2013). Warawa responded by filing an appeal, noting that the Subcommittee’s decision violated the advice of its own Library of Parliament researcher. He also suggested the committee may have been subject to outside interference (O’Malley, 2013b)

While having already attracted significant attention, the battle over M-408 soon turned into an even larger conflict between the party leadership and its own backbenchers. After the motion was deemed non-votable, Warawa attempted to use a Member’s Statement to complain about the outcome in the House of Commons. Such statements are brief, one-minute parliamentary speeches that occur in a 15 minute time slot each day prior to Question Period. Given the limited number of statements available, parties usually provide the Speaker with a list indicating which of their MPs are scheduled to speak that day. While he was initially given a spot on the CPC list, Warawa was later removed before he could speak. To protest this treatment, Warawa then took the unprecedented step of raising a question of privilege to the Speaker on the grounds that his rights as an MP had been violated by his own party (Payton, 2013). Conservative Whip Gordon O’Connor responded by arguing that parties were like teams, with the party whips being able to decide which MPs to call on at which time (Kennedy, 2013a).

Warawa eventually withdrew M-408 after losing his appeal, and instead introduced a private members’ bill that would toughen the rules around house arrest in cases where the victim and offender live near each other (Kennedy, 2013b). However, Speaker Andrew Scheer ultimately ruled in late April 2013 that the party whips do not have control over members’ statements.

Instead MPs unable to obtain a spot on their party's list would be able to stand and be recognized directly by the Speaker (O'Malley, 2013a). Warawa soon took advantage of this new opening, rising on May 9 – the day of the 2013 March for Life – to denounce the practice of sex-selective abortions and call for government action (Cross, 2013).

When Parliament adjourned for its summer break in June 2013, it appeared that the stage was set for still further conflict on the abortion issue. The Speaker had just granted pro-life MPs a new platform with which to express their views. Moreover, the March for Life rally, which was attended by thousands of supporters and 22 Conservative backbenchers, demonstrated that there was a significant core within the CPC who were dedicated to keeping the issue on the public agenda, no matter the cost (Wingrove, 2013). As Conservative MP Rob Anders told the crowd: “The [MPs] behind me have taken strong stands and have made enemies for doing so” (Wingrove, 2013). Any prospects for a return to incrementalism on the question of abortion looked dim. Yet surprisingly the latest front in Canada's abortion debate, the approval of RU-486, may be witnessing precisely such a rapprochement between the government and social conservative backbenchers.

6.0 Approval of RU-486

The drug RU-486 is often referred to as an “abortion pill.” It can be used in the first seven weeks of pregnancy in order to terminate a fetus. By making abortion available without the need for any costly clinical infrastructure, RU-486 is seen to have the potential to greatly increase the accessibility to abortion services, especially in rural areas. While the drug has been licensed for use in over 50 countries dating back to the late 1980s, it was not until October 2012 that its manufacturer submitted an application to have RU-486 approved for sale in Canada.

The application received immediate support from reproductive health advocates, with an editorial in the *Canadian Medical Association Journal* highlighting its potential to improve abortion access in the country (Dunn and Cook, 2014). On the other side, social conservative activists have placed intense pressure on the government to deny its approval. Opposition to the drug was the main focus of the 2014 March for Life at the Parliament buildings in Ottawa, which adopted the slogan “RU-4Life?” (Craine, 2014). Yet curiously, despite this civil society mobilization against the drug, social conservative MPs have yet to mobilize against it in parliament. Instead, with the exception of a single petition to disallow the drug (Albrecht, 2014), all recent references to RU-486 in Parliament have been by opposition MPs calling for its approval.

This lack of direct opposition to the approval of RU-486 from socially conservative MPs may reflect the messaging adopted by pro-life activists. Rather than focusing solely on protecting the sanctity of life or rights of the unborn, anti-abortion advocates have also lobbied against RU-486 on the grounds that it has caused serious side effects, including death, among the women who have used the drug (Craine, 2014). This tactic appears to have been successful, with Health Canada first dragging out its initial evaluation of the drug for more than twice the usual time needed for approval (Grant, 2014). Then in early 2015, the agency announced that it would require further safety data from the manufacturer before the full review could be completed

(Payton, 2015). This new request will delay the final approval until at least fall 2015, likely moving the decision until after Canada's 2015 federal election. As a result, RU-486 would not be available for prescription until at least 2016, if it is approved at all.

It is entirely possible that the case of RU-486 will turn out to be a repeat of the funding for IPPF: after months of delay, the government may finally approve the drug over the objections of social conservatives. However, so far the process has all of the marks of incrementalism as outlined by Farney above. By staying largely silent instead of articulating their opposition to RU-486, Conservative MPs may well create the political space to allow the government to dismiss the application on technical grounds. In contrast, voicing strong opposition would attract public attention and could actually reduce the government's space to act.

7.0 Conclusion

Although not evident at the time, the Conservative government's sharp change in position on Bill C-484 in the summer of 2008 marked the end of its support for measures dealing with abortion or the protection of fetuses within Canada. Moreover, while the government could have simply let C-484 die off when the 2008 election, it took deliberate steps to distance itself from its past support for the bill, and to stress that it would not do anything to affect abortion rights in Canada. As one journalist put it, "Mr. Harper... showed up for that Bill [C-484], and sat in the House and grinned apparently at the Liberals across floor from him saying, 'I'm going to vote in favour of this... But then somewhere between that and [August] 2008 he had an epiphany'" (Confidential Interview, May 2012). This revelation seems to have been sparked by the negative media reaction engendered by the CPC's support for C-484, and the damage it had done to his efforts to downplay the abortion question.

Although the Conservative government did move to exclude abortion funding from the Muskoka Initiative, all private members' initiatives after C-484 were either given a cold shoulder (C-537) or were actively repressed. On the latter point, the depth of the party leadership's opposition to M-312 can be seen both in the harshness of its response and in the messenger who delivered it. As one journalist put it, "I was surprised that it was A) the whip [Gordon O'Connor], and B) so thorough an evisceration of something as I've ever seen. It just took the wind out of the place" (Confidential Interview, May 2012). Moreover, a source close to the party leadership stressed that such a firm reaction would not have been occurred without the approval from the Party leadership (Confidential Interview, May 2012). The party's willingness to endure weeks of negative headlines regarding Mark Warawa's question of privilege also demonstrates the extreme lengths to which it would go rather than let one of its MPs speak on an abortion related subject. Moreover, it would appear to end any suggestions that the party has a semi-official strategy of using private members' bills as a way of addressing the concerns of social conservatives – at least on the subject of abortion. Similarly, the renewal of funding for IPPF despite a very public campaign by socially conservative MPs speaks to the government's desire to avoid perceptions of backbench influence on abortion policy.

However, while the government has grown more aggressive in attempting to repress MPs' efforts to change Canadian policy with regard to abortion, the initiatives themselves have become more

moderate over time. None of the private member's bills discussed above have actually sought to recriminalize abortion. Instead, as Haussman and Rankin (2009) argue, the measures introduced have followed an incremental approach that raises issues related to abortion without tackling the question head on. Moreover, the legal impact of each motion appears to have been more mild than the last.⁷ Indeed the most recent initiative, M-408, simply called on the House of Commons to condemn a practice (sex-selective abortions) that had already been heavily criticized by the medical community, including in an editorial published in the *Canadian Medical Association Journal* (Viatteau, 2012).

This combination of increased repression despite the adoption of an incremental approach led to growing frustration and ultimately rebellion among socially conservative MPs. Yet after reaching a state of public warfare in 2013, it appears that peace may have been reached between these backbenchers and the party leadership. While it is too early to say for sure, and more research is required, the exceptional delays in the approval of RU-486 combined with the remarkable silence on the issue from socially conservative MPs suggests that the two sides may have found a new common ground in maintaining the status quo. As such, social conservatives may now believe it is advantageous to continue their support for the Conservative party rather than risk the election of a new government that would take a more proactive stance on reproductive rights.

⁷ C-484 contained exemptions lacking in C-291; C-510 did not actually recognize the fetus in law, but rather dealt with coercion of the mother; M-312 would not have changed any laws directly, would instead have established a committee to investigate them.

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