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Understanding Conscience Vote Decisions: The Case of the ACT*

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Taken as a whole, previous conscience vote studies have identified four potential influences on an MP's decision: party membership, gender, religious affiliation, and their constituents. Yet most of these studies have identified these influences by simply examining the voting patterns or outcomes of conscience vote results. This is problematic, as the factors that allow us to predict voting outcomes may not be the same factors that actually influence those who do the voting. In this paper, by using the ACT as a case study and employing a mixed methodology, we seek to better explain what actually influences an MP's conscience decision. We conclude that while party remains the most important predictive factor, the influence of the personal should be taken more seriously. By this we mean both an MP's personal experiences and their personal ideology.

Most parliamentary decisions in Westminster systems, made along strict party lines, are entirely predictable and transparent. This is not the case for a conscience vote. When politicians are free to decide individually how they will vote, what influences them? Several theories have been put forward. Some have argued that party stills plays a dominant role,¹ or that gender can be influential,² or that the religious affiliation of MPs can

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¹ J. Warhurst, 'Conscience Voting in the Australian Federal Parliament,' *Australian Journal of Politics and History* 54(4) 2008, 579–596; J. Baughman, 'Party, Constituency, and Representation: Votes on Abortion in the British House of Commons', *Public Choice* 120(1/2) 2004, 63–85; C. Pattie, R. Johnston and M. Stuart, 'Voting Without Party?', in P. Cowley (ed.) *Conscience and Parliament* (London: Routledge, 1998); P. Cowley, 'Unbridled Passions? Free Votes, Issues of Conscience and the Accountability of British Members of Parliament', *The Journal of Legislative Studies* 4(2) 1998a, 70–88; J. Hibbing, and D. Marsh, 'Accounting for the Voting Patterns of British MPs on Free Votes', *Legislative Studies Quarterly* 12(2) 1987, 275–297.

² Warhurst (2008), *op cit.*; H. Pringle, 'Urban Mythology: The Question of Abortion in Parliament', *Australasian Parliamentary Review* 22(2) 2007, 5–22; S. Broughton and S. Palmieri, 'Gendered Contributions to Parliamentary Debates: The Case of Euthanasia', *Australian Journal of Political Science* 34(1) 1999, 29–41; Pattie, Johnston and Stuart, *op cit.*

determine the outcome;³ while others have looked to the characteristics of an MP's constituents.⁴ Yet conscience votes are intended to be personal. Indeed the term 'conscience' clearly denotes this. The records of parliamentary debates preceding conscience votes show the private sentiments and emotional responses that are commonly provoked and with it a blurring of the political and the personal. Such records are replete with stories of MPs' personal experiences — whether their own sick child, a dying parent or a discussion with a spouse, as well as their particular personal ideologies. Most previous attempts to understand the influences on conscience vote decisions have generally avoided the influence of the personal. In this article, using the ACT as a case study, we argue that it is time to take the influence of the personal much more seriously when analysing conscience votes.

Perhaps one of the reasons why previous conscience vote studies have overlooked the personal, or at least subsumed it into other categories, is methodological. Almost all of the existing studies have the same basic methodology: they rely on the outcomes of conscience votes to then hypothesise about possible causes. While this has made them reasonably good at highlighting predictive factors, it runs the danger of assuming that a predictive factor is an actual cause. Although most conscience vote outcomes can be predicted along party lines, this does not tell us whether the usual party pressures remain a strong influence, or whether people of a similar persuasion join the same political parties and, freed of party shackles, still generally end up voting together. If we want to understand what is actually going on in conscience votes, and not simply predict the overall results, then we need to maintain a distinction between *predictive* factors and *influencing* factors; that is, those factors that usefully allow us to predict voting outcomes, and those factors which instead help shed light on the actual dynamics of individual decision-making. Failure to uphold this distinction is to conflate explanation with prediction, and would be akin to assuming Paul the Octopus, with his excellent predictive power in determining World Cup 2010 soccer results, is the explanation of those results.

The flipside of focussing, as we do, on explanation, and less on prediction, is that explanation is often complex and difficult to reduce to single causes. While we will suggest the importance of various influences, we cannot offer causal weightings. We use a problem driven, predominantly qualitative, mixed methodology which balances three types of data. The first are the results of a series of twelve interviews that were conducted with both past and present ACT Legislative Assembly members in 2009.⁵ The second comes from examining Legislative Assembly conscience vote debates recorded in Hansard. The third set

³ Warhurst (2008), *op cit.*; Baughman, *op cit.*; N. Longley, 'Voting on Abortion in the House of Commons: A Test for Legislator Shirking', *Canadian Public Policy* 25(4) 1999, 503–521; Pattie, Johnston and Stuart *op cit.*

⁴ Baughman, *op. cit.*; Hibbing and Marsh, *op cit.*

⁵ It was originally intended that all seventeen members of the Seventh ACT Legislative Assembly would be interviewed on the issue of conscience votes in the context of a potential vote on RU486. However, a number of assembly members were unwilling, or unable, to participate in this research. Only seven of the seventeen serving assembly members agreed to be interviewed (five Labor, two Greens, and no Liberals). In order to gain a more representative sample for analysis, past Liberal members were approached and four more interviews were added. As a validity check, one other past Greens member was also interviewed. The twelve interviews contain a reasonably representative sample of both party (five Labor, four Liberal, three Greens), and gender (seven female, five male). Four interviewees wished to remain anonymous, and any unattributed quotations belong to this group. Further details are available from the authors.

involves correlates observed in the results of two ACT conscience votes; the *Crimes (Abolition of Offence of Abortion) Bill 2001* and the *Human Embryo (Research) Bill 2004*. Our analysis represents a methodological shift from the predominantly quantitative methods used by previous researchers in conscience vote studies, and also sheds light on what actually influences MPs voting on conscience issues, rather than merely predicting their outcomes.

The paper is structured as follows. Using the ACT as a case study, we begin by critically examining the influences put forward by previous conscience vote studies, and argue that, while party is the most important predictive factor, it is not always the influence it appears to be. We then argue that, at least according to the ACT study, the influences of gender, religion and an MP's constituents have largely been overstated. We conclude by arguing that the personal — in the form of both experience and ideology — plays an important and overlooked determinant role in conscience vote decision-making.

The Influence of Party Membership

This is my first conscience vote as a politician and hopefully my last one. A conscience decision is, by nature, a difficult one to make at the best of times. After today, some of the community will be happy with the assembly's decision and some will not. Some of those in the latter group will be in my own party. I am aware that I am the only Liberal member voting for Mr Berry's bills today and, to be honest this makes me more than a little nervous. However, my vote reflects my convictions, and I stand by them.⁶

One month after Helen Cross uttered these words - during the debate over the *Crimes (Abolition of Offence of Abortion) Bill 2001* - she was an Independent, having been expelled from the Liberal Party. Her vote and subsequent leaving of the Liberal Party may not have been unrelated. While there is no official party line in a conscience vote, the party apparently remained a strong enough influence for Cross to feel uneasy about voting contrary to her colleagues.⁷ It is one of the great ironies of conscience votes that, freed of the usual strictures of party discipline, MPs still generally vote alongside their party colleagues. Indeed as Phillip Cowley notes, conscience issues may not always be, as popularly described, non-party issues.⁸

Consistent with predictive theories of conscience voting, recent results of conscience votes in the ACT show clear party trends. For example, the *Crimes (Abolition of Offence of Abortion) Bill 2001* was narrowly passed by the seventeen member assembly (9:8). This bill, which was designed to remove abortion from the ACT Crimes Act, had the support of six out of eight Labor MLAs, and was opposed by six out of seven Liberal MLAs (see Table 1). The situation was very similar with the *Human Embryo (Research) Bill 2004*, which was also passed (11:5). This bill, designed to allow research on human stem cells, had the support of all seven Labor members, while four out of six Liberal members voted against it (see Table 2).

⁶ H. Cross, MLA, ACT Legislative Assembly Debates, Hansard [address], 21 August, 2002, p. 2559.

⁷ Cross's former colleague, Gary Humphries, argued that this case was not straight forward, stating: The party did not expel her because of her vote on abortion. Her approach to the issue was certainly a factor in people coming to the view that she was unable to comply with party discipline, but there was no party line on the Abortion Crimes Act and she was free to vote as she saw fit.

⁸ P. Cowley, 1998b. 'Conclusion', in his (ed.) *Conscience and Parliament* (London: Routledge, 1998b), p. 188.

**Table 1: Crimes (Abolition of Offence of Abortion) Bill 2001
votes by party and sex**

		<i>For</i>	<i>Against</i>	<i>Total</i>
	Total	9	8	17
<i>Party</i>	Labor	6	2	8
	Liberal	1	6	7
	Greens	1	0	1
	Democrats	1	0	1
<i>Sex*</i>	Male	4	7	11
	Female	5	1	6
	Labor Male	4	2	6
	Labor Female	2	0	2
	Liberal Male	0	5	5
	Liberal Female	1	1	2

* Both the Greens and Democrats MLAs were female

Table 2: Human Embryo (Research) Bill 2004 votes by party and sex

		<i>For</i>	<i>Against</i>	<i>Total</i>
	Total	11	5	16
<i>Party</i>	Labor	7	0	7
	Liberal	2	4	6
	Greens	0	1	1
	Democrats	1	0	1
	Independent	1	0	1
<i>Sex*</i>	Male	8	2	10
	Female	3	3	6
	Labor Male	6	0	6
	Labor Female	1	0	1
	Liberal Male	2	2	4
	Liberal Female	0	2	2

* Both the Greens and Democrats MLAs were female

Yet these clear party trends do not explain what actually influenced MPs to vote generally along party lines. Conscience vote researchers, after identifying party trends, tend not to go much further. John Warhurst does briefly suggest two ways in which party membership may influence conscience vote decisions in Australia: comfort within the party majority, and fear of the repercussions of voting contrary to typical party views or the views of party leaders.⁹ Thus although freed of formal party discipline, MPs may still feel pressure to vote in a similar fashion to their colleagues. This may occur both consciously, where someone with one eye on their future career may be unwilling to vote against the majority of their party, and unconsciously where vote decisions are made by force of party-voting habit. Indeed,

⁹ Warhurst (2008), *op cit.*, pp. 585-6.

Pattie, Johnston and Stuart describe British MPs as ‘creatures of habit’, whose ‘first instinct is still to vote with their fellow party members.’¹⁰

Cross’s speech above seems to be an example of a conscious party pressure. A less dramatic case might occur when a parliamentary leader, while allowing a conscience vote, still expresses a strong view — for example, then-Prime Minister John Howard’s opposition to euthanasia.¹¹ This situation could be described a type of ‘informal whip’.¹² Unconscious party pressures might be seen in the fact that in both ACT votes, Labor MLAs, who would be more used to stronger sanctions for voting against formal party lines, were more likely to vote similarly to their colleagues than Liberal MLAs.

Yet because most conscience vote researchers have primarily relied on the outcomes of conscience votes, the actual influence of party membership on conscience vote decisions has not been sufficiently explored and indeed, may not be as strong as it initially appears. Although the correlations in conscience vote results clearly show party trends, they cannot distinguish between conscience vote decisions that have been influenced by party, and conscience vote decisions that have been influenced by some other factor, or factors, but remain consistent with a party line.

The types of more direct influences suggested by Warhurst need to be distinguished from much less direct influences. Hibbing and Marsh, for example, in their study — which looked strictly at outcomes — argue that it is shared policy views, rather than the repercussions of voting the ‘wrong’ way, that explain the influence of party.¹³ They do not mention direct party pressures at all. To explain this less direct type of influence another way, we can imagine that it is the shared general ideologies, policy views and beliefs that attract like-minded people to specific parties in the first place. The ACT study suggests the importance of both these types of influence.

Despite the clear party trends in the outcomes of these ACT conscience votes, almost all of the parliamentarians interviewed played down the influence of party. Nine out of twelve interview participants responded that party lines would ‘not at all’ influence their conscience vote decisions on potential legislation concerning the availability and use of RU486 (an abortion-inducing medication) in the ACT. Only two of the twelve said it would influence them ‘a little,’ and only one suggested ‘moderate’ influence. While it might be easy to dismiss these answers as either dishonest or at least self-deceiving, there seems to be something worth exploring here.

As former Liberal MLA Greg Cornwell put it, ‘although in the results of conscience votes, it may look like party members got together and voted in a particular way, they probably didn’t.’ This is supported by a number of statements made by interview participants including senior Greens MLA Caroline Le Couteur who, when asked whether party membership would influence her vote decision on potential RU486 legislation, replied: ‘The Greens are in favour of choice for women and that is certainly my view but I don’t know that that would influence me. It’s more that my views are consistent with the Greens policy. It’s not really a question of influencing because we are on the same page to start with.’

¹⁰ Pattie, Johnston and Stuart, *op cit.*, p. 172.

¹¹ Warhurst (2008), *op cit.*, p. 586.

¹² Pattie, Johnston and Stuart, *op cit.*, p. 176.

¹³ Hibbing and Marsh, *op cit.*, pp. 277, 292.

Similarly, former Greens MLA Deb Foskey said, 'I am a Green because of the particular views that I hold.' Former Liberal MLA Gary Humphries summarised it best when he said:

...on issues like abortion and euthanasia you'll end up with the majority of Coalition members being anti those things and the majority of the Labor members being for them. It's more of a tradition and a cultural mindset than anything else, it's to do with the fact that you tend to come from a more conservative background or otherwise.

This suggests that at least some — and in the ACT case, perhaps the majority — of the apparent party cohesion of conscience vote results may stem from an adherence to shared general ideologies and common policy views. This would mean that party cohesion can be explained by the less direct influence of a common affinity with conservative or liberal social values among like-minded party members as well as by more direct party pressures. These two types of influence help explain the primacy of party observed in conscience vote results, and taken as a whole, party is a very good predictive tool. However, as an influencing factor, the effect of party in general seems considerably more complicated. Indeed if we wish to use party as an *explanation* rather than as a *predictor* of conscience vote results, then only the more direct party influences (such as comfort within the majority, fear of voting contrary to party leaders, and the 'informal whip') should be included. The fact that parties attract like-minded people who happen to vote in a similar fashion is not the influence of party, but of something else. It is better understood as that of the personal, in this case personal ideology. That is, much of the apparent influence of party is simply the aggregation of many similar personal ideologies. While it is hard to say how much of an apparent party trend is caused by direct party influences and how much by the fact that like-minded people are generally in the same party, two points need to be made.¹⁴ First, from a predictive point of view party is not the only important variable — that is, conscience votes do not go strictly along party lines — and second, where parliamentarians do vote along apparent party lines, we should not assume that party is the cause.

The Influence of Gender

Although most researchers have argued that party is the primary determinant of conscience votes, it cannot be their sole determinant. Otherwise there really would be little practical difference between conscience votes and regular votes. Gender has been put forward as an explanation for conscience vote outcomes that deviate from party lines. Warhurst, for example, argues that women in parliament are generally more socially liberal on conscience issues than their male colleagues and thus vote differently.¹⁵ More specifically, Helen Pringle argues that because the number of women in Federal Parliament has increased, and women vote differently from men on the issue of abortion, conscience voting should no longer be seen as a serious obstacle to liberal abortion law reform.¹⁶ The ACT experience is initially consistent here. If we look at Table 1, we can see the vast majority of female MLAs voted for the removal of abortion from the ACT Crimes Act (five out of six), while the majority of men voted against it (seven out of eleven).

¹⁴ Shared personal ideology may also lead to organised cross-party voting, such as occurred in the *Therapeutic Goods Amendment (Repeal of Ministerial Responsibility for Approval of RU486) Bill 2005*. K. Ross, S. Dodds, and R. Ankeny, 'A Matter of Conscience?: The Democratic Significance of 'Conscience Votes' in Legislating Bioethics in Australia' *Australian Journal of Social Issues* 44(2) 2009, 121-144.

¹⁵ Warhurst (2008), *op cit*.

¹⁶ Pringle, *op cit.*, p. 19.

Warhurst's conclusions are based predominantly on the outcomes of three conscience votes in Federal Parliament between 1996 and 2006. The bills included: the *Euthanasia Laws Bill 1996*, in which euthanasia legislation introduced in the Northern Territory was overturned by Federal Parliament; the *Research Involving Embryos Bill 2002*, which sought to allow research to be conducted on excess assisted reproductive technology embryos; and the *Therapeutic Goods Amendment (Repeal of Ministerial Responsibility for Approval of RU486) Bill 2005*, which returned the licensing approval of RU486 to the Therapeutic Goods Administration from the Health Minister. Yet, as Warhurst himself admits, two out of the three bills he examined were complicated by regulative measures. The euthanasia bill was clouded by debates concerning territorial rights, and the RU486 bill, though approached as an abortion issue, primarily concerned the correct licensing authority of modern drugs in Australia. As a result, MPs' votes may have been influenced by the technical aspects of these bills rather than the conscience issues they concern.¹⁷

Indeed if we dig further, there seems to be a further complicating factor to the explanation that women are generally less socially conservative than men. To see this, one only has to separate conscience votes that are on abortion from other conscience votes. In the three cases Warhurst examines, women were not consistently less socially conservative than men. In the House of Representatives, there was negligible difference between the conservatism of men and women on the euthanasia issue (71:72% respectively), and very little difference on research involving embryos (28:16% respectively). Further, on the euthanasia vote in the Senate, the contrast between the voting conservatism of men and women (65:30% respectively) is not as marked as in the case of the abortion vote (52:11%).

In the ACT, in contrast to the abortion vote, the embryo research vote (Table 2) had a far higher percentage of men (80%) voting less conservatively than women (50%). Strikingly, it was the votes of Liberal men that were most divided on this issue (2:2). This suggests that while some conscience issues in parliament, namely abortion, exemplify the illusion of sex-based differences, sex does not appear to hold up as an influence on conscience vote decisions *overall*.

While sex may be a good predictive factor for conscience votes on abortion-type issues, it does not appear to be a good predictive tool for non-abortion-type issues, and therefore may not be a good explanatory factor *at all*. If we accept the feminist insight that 'sex' is a biological matter while 'gender' is socially determined, then despite most conscience vote researchers using the term 'gender', their arguments seem to be about sex. Looking at conscience votes more generally, it may be gender, or something like it, that offers the better explanation overall.

There is much to indicate that MP's experiences as either men or women can influence their voting decisions. Greens MLA, Caroline Le Couteur, perhaps best summarises this when she said:

My gender influences who I am and what I feel about things. What things is gender totally irrelevant to? I don't think that being a woman necessarily makes me pro or against abortion. However, I think it makes me probably more aware that there are two sides to it.

Le Couteur's words highlight the fact that both men and women have different life experiences which, as Broughton and Palmieri suggest, may lead to a distinctive perspective in politics.¹⁸ Yet, as one Labor MLA noted, this certainly need not be a conscious influence:

¹⁷ Warhurst (2008), *op cit.*, pp. 584, 595-6.

¹⁸ Broughton and Palmieri, *op cit.*, p. 29.

‘I cannot detach my gender from my life experiences and therefore it is a part of who I am, so yes in some ways my gender comes into my voting decisions. But I do not vote specific ways on issues typically construed as ‘women’s issues’ purely because I am a woman.’

What these MLAs seem to be pointing at is that gender, as lived experience can affect their voting decisions. Further, it seems that gender might not even be the best term here, and this influence might be more accurately described as less conscious, or subconscious, relevant personal experience. In the case of abortion, when women are not influenced by party or personal ideology, they are likely to have similar relevant personal experiences which lead them to be socially liberal. However on other issues, their personal experiences either pull in very different directions, or are not sufficiently strong and thus, absent a strong personal ideology, they may fall back to a de facto party line. If we are trying to understand why MPs vote one way or another in a conscience vote, then neither sex nor gender in themselves seems to offer sufficient insight.

The Influence of Religious Affiliation

Conscience vote studies in the UK have tended to suggest that the religion of parliamentarians can affect their vote, with a particularly strong conservative link between votes on abortion and Catholicism.¹⁹ In Australia, Warhurst similarly concludes that religious variables — and not just Catholicism — cut across party lines in conscience votes and link members on all sides of the house.²⁰ This is consistent with the common view that religion equals conservatism in politics. However, the ACT case suggests this may not accurately reflect many religious MPs’ conscience voting habits and intentions. Despite common perceptions, religious affiliation and social conservatism may not be that strongly linked. We found that religious affiliation was neither a good predictive nor a good explanatory factor.

One of the key limitations of using the variable ‘religion’ is that it overlooks deep and important divisions both within and between different religious groups.²¹ Different religious denominations are, for the most part, barely comparable, and thus viable conclusions regarding the influence of religion as a whole on conscience vote decisions are difficult, if not impossible, to make. While the Catholic Church holds strong and inflexible anti-abortion and anti-euthanasia positions, some Christian churches are less conservative. For example, in a press statement, the President of the Uniting Church Assembly, Rev Dr Dean Drayton clarified his church’s position on abortion, stating: ‘We [the Uniting Church] reject two extreme positions: that abortion should never be available; and that abortion should be regarded as simply another medical procedure.’²²

Indeed some Christian Churches are not socially conservative at all. In the ACT parliamentary debates leading up to the 2002 abortion vote, Greens MLA Kerrie Tucker quoted two religious sources which expressed a clear ‘pro-choice’ position on behalf of their Churches; Rev Christine Grimbol of the Presbyterian Church, and the New South Wales

¹⁹ Baughman, *op cit.*; Pattie, Johnston and Stuart, *op cit.*; Hibbing and Marsh, *op cit.*

²⁰ Warhurst (2008), *op cit.*

²¹ Although Warhurst (2008), *op cit.*, p. 595, notes that there are divisions within religious denominations and that generalisations about religious groups should be made carefully, he does not explain what this means for conclusions, including his own, that suggest the influence of religion on conscience vote decisions. Both Baughman, *op cit.* and Hibbing and Marsh, *op cit.*, explicitly discuss religion in general, yet their modelling only has the variable ‘Catholic’.

²² D. Drayton, ‘Abortion (Uniting Church position)’, *John Mark Ministries*, 3 February 2005, <<http://jmm.aaa.net.au/articles/14477.htm>> accessed on 30 November 2012.

Synod of the Uniting Church.²³ This is in contrast to Warhurst's conclusion that religious MPs — both Christians as a whole and Catholics in particular — tend to vote more conservatively on conscience votes, and suggests that there may be no uniform approach to conscience issues among religious MPs.²⁴

An alternative explanation here might be that it is not religion in general that is the influence, but only more traditional religions like Catholicism. This seems to be the view of former Liberal MLA Greg Cornwell, who singled out Catholic MPs stating:

In a small assembly, such as the ACT Assembly, I am concerned about the number of Catholics in it because they can really influence a vote. Catholicism can be very strong in the ACT, perhaps not physically strong, but vocal; and vocal groups frighten politicians.

Yet in our interviews of past and serving MLAs, only five out of the twelve (four of whom are affiliated with the Liberal Party) identified with a religious group, and only two as Catholic (one Labor, one Liberal). One of these MLAs, former Liberal MLA Gary Humphries admitted that his religion could influence his vote on potential RU486 legislation, but went on to argue that he did not think it would: 'Potentially it could influence my vote. I don't believe in fact that it has because there are some things in the Catholic teaching that I don't agree with, but there is potential that it could.'

This suggests the need to distinguish between religion affecting one's conscience, and religion affecting one's conscience vote. This is supported by the other Catholic interviewee (a Labor MLA) who said: 'Based on your religious beliefs you may personally think that abortion is wrong, however, you can still vote for it to be made available in the ACT because you must consider the views of other women, and give them their own choice.'

Given the raw numbers, it seems Cornwell's earlier-stated concern may not be warranted. Indeed, even if there were more Catholics in the assembly, it is not at all clear they would vote as a bloc on conscience issues. Thus, outside the general observation that the Liberal party appears to be more likely to attract religious members, and as previously noted, Liberals are more likely to vote more conservatively on conscience issues, there is very little evidence in the ACT to confirm the suggestion that religious affiliation influences individual parliamentarians' conscience vote decisions in parliament. For this reason, it appears that, at least in the ACT, religious affiliation is both a weak predictive conscience vote factor, and an equally weak influencing conscience vote factor.

The Influence of Constituents

British conscience vote researchers have highlighted the importance of the characteristics of constituents for an MP's conscience vote. Baughman, for example, argues that, at least on the issue of abortion, MPs make decisions with one eye watching their electorate.²⁵ In an examination of the voting patterns of British MPs between 1965 and 1980, Hibbing and Marsh note that the more Catholics in a constituency, the more likely the person representing that constituency will vote in a socially conservative fashion.²⁶ Both studies explicitly argue that the perceived characteristics of MPs' constituents may influence their conscience vote decisions.

²³ K. Tucker, MLA, ACT Legislative Assembly Debates, Hansard [address], 21 August, 2002, 2513–4.

²⁴ Warhurst (2008), *op cit.*, p. 595.

²⁵ Baughman, *op.cit.* p. 78.

²⁶ Hibbing and Marsh, *op.cit.*, p. 292.

Australian researchers have not directly examined this influence previously. Perhaps with good cause. Despite the many references to MPs representing their constituents' views in Australian parliamentary debates on conscience issues, the characteristics of constituents do not appear to be an influence in the ACT. Hibbing and Marsh's suggestion of a correlation between the number of Catholic constituents and conservative voting of their MP may be useful as a predictive tool, but it is problematic as more general explanation. One imagines that in these electorates there is an increased probability of a socially conservative representative being elected, and thus it may not be the immediate influence of his or her constituents that impacts on an MP's conscience vote, so much as the likelihood of an ideological similarity between an MP and their constituents. Taken as a whole, the evidence gathered in the ACT — which comprises three multi-member electorates²⁷ — suggests that the characteristics of constituents do not significantly influence conscience vote decisions. This is consistent with Neil Longley's conclusion that Canadian parliamentarians voting on the issue of abortion did not appear to be influenced by the preferences of their constituents.²⁸

ACT conscience vote debates, like Australian conscience vote debates in general, include many statements made by parliamentarians claiming to represent the views of 'the people' or 'the electorate'. Some MPs are more explicit and admit to representing only those by whom they were lobbied. For example, during Federal debates on the *Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Bill 2006*, Senator Patricia Crossin announced: 'I do not come to this debate with a Northern Territory perspective. I do come here, though, representing the views of the people in my constituency who have lobbied me in respect of this legislation.'²⁹

Other MPs, such as some of those who defended the Northern Territory's pro-euthanasia legislation, believe that in conscience votes parliamentarians should follow the majority view of the broader community, as demonstrated by public opinion.³⁰ This last view does not, however, seem to be widely followed: the *Euthanasia Laws Bill 1996* was passed by the House of Representatives (88:35), in the face of 80:20% opinion poll in the opposite direction.³¹

While it might be good politics to refer to one's constituents in parliamentary debate, as former Liberal MLA Greg Cornwell argued, 'the views among constituents on these issues are so varied that, even if one wanted to, it would be impossible to represent them all in parliament.' Thus, even if MPs try explicitly to represent their own constituents, it is far from clear what it actually means for them to do this, irrespective of whether the system is single- or multi-member such as in the ACT. MPs may select certain views from within their electorates to help publicly justify their own vote decisions, not unlike normal party votes. This may help to explain the prominent referencing of constituents' views in parliament, and adds to the illusion that constituents influence parliamentarians' conscience vote decisions.

Indeed, even the 'keeping one eye on the electorate' explanation may not hold up either, especially considering the passing of the *Euthanasia Laws Bill 1996* in the face of such overwhelming public opinion. Likewise, on abortion issues, Pringle argues that the

²⁷ Brindabella and Ginninderra elect five members each and Molonglo elects seven.

²⁸ Longley, *op cit*.

²⁹ P. Crossin, Senator, Commonwealth of Australia Parliamentary Debates, Senate, Hansard [address], 6 November, 2006, p. 40.

³⁰ J. Warhurst, 'There is No Such Thing as a Free Vote', *The Canberra Times*, 12 April 2002.

³¹ Broughton and Palmieri, *op cit*, p. 33.

Parliament has not kept up with public opinion.³² Although some parliamentarians remain aware that their conscience vote decisions may carry electoral repercussions, most parliamentarians interviewed agreed that the characteristics of their constituents would have very little influence on their conscience vote decisions — and if the characteristics of constituents was to have significant influence, it would likely be evident in multi-member electorates such as the ACT. Former Liberal MLA Greg Cornwell, for example, noted that ‘in these matters every politician is inundated by letters, the situation generally is that it doesn’t change things.’ Former Liberal MLA Gary Humphries best summarised the views of the majority of interview participants when he said:

It’s suggested sometimes that politicians should put aside their moral judgement and make a decision based on what their electorate thinks about something. I’ve never met a politician who in fact votes in this way because I don’t believe that you can develop a consistent and coherent approach to the world when you make decisions in politics based on what people tell you they want to do, because frankly, people are inconsistent in these circumstances.

To use Edmund Burke’s terms, on issues of conscience at least, these MLAs see themselves as trustees rather than delegates. The characteristics of constituents like religious affiliation appears to be a weak predictive conscience vote factor and an equally weak influencing conscience vote factor.

The importance of the personal

Our argument so far has been that party (both directly and indirectly) is the key influence on conscience votes in both a predictive and an explanatory way. We have largely been sceptical of religion and the influence of constituents and questioned the importance of gender. This leaves the question of what influences conscience votes that have not been determined by party? On the evidence gathered in the ACT, it is time to take the personal more seriously. By this we mean both the influence of personal experience, which we expand on below, and of personal ideology, which we discussed in the section on party.

The importance of personal experience was clear in both our interviews and in conscience vote debates. In one interview, for example, a senior Greens MLA stated:

At the end of the day a conscience vote is just that, it is personal. It is up to you to decide what it is that you include in your decision making and what you don’t. Whether you include your own personal experiences and the experiences of your family, the wishes of those constituents who contact you, or any other influences, is your decision.

During debate over the ACT abortion vote, Greens MLA Kerrie Tucker noted that ‘the questions of where personhood begins and where life begins are personal’.³³ During parliamentary debate over the embryo research vote, Democrat Roslyn Dundas said, ‘the extent to which people will choose to weigh the various ethical dimensions in this debate is a personal choice’.³⁴ But what does it mean for the personal to have a determinate role? According to one of the Greens interviewees, ‘your personal experiences in life will influence your conscience votes.’ This is an argument borne out by the frequency of personal narratives and private accounts in ACT conscience vote debates, as well as those in Federal Parliament.

³² Pringle, *op cit*.

³³ Tucker, ACT Legislative Assembly Debates, *op cit*. pp. 2512-3.

³⁴ R. Dundas, MLA, ACT Legislative Assembly Debates, Hansard [address], 1 April 2004, p. 1588.

It might seem that using the influence of personal experience as a general explanation of conscience vote decisions is meaningless: all influences can ultimately be considered as personal experience. A clarification might help here. In the context of conscience votes, the sense of personal experience that we are referring to is relevant personal experience/s in its most basic form. By this we mean close experience that has a clear and causal connection to the particular conscience issue. Such experiences are likely to be determinant and primary. While personal experiences may lead to a personal ideology or the joining of a particular political party, this is distinct from personal experiences that are directly related to the conscience issue at hand.

For our purposes, relevant personal experience can be broken into three basic types. The first involves relevant events experienced either by MPs, or by people close to MPs. For example, four out of seventeen MLAs in the 2002 abortion vote debates, and seven out of ten MLAs in the 2004 embryo research vote debates, cited personal narratives, and at times, deeply private accounts, to justify their individual vote decisions on these conscience issues.³⁵ During the embryo research debate, for example, Liberal MLA Brendan Smyth said: ‘as the father of twins, day fourteen was pretty important to me and pretty important to my kids’, adding, ‘my mother died of cancer. I would love to see a cure for cancer’.³⁶ MPs regularly appeal to their life experiences, or to the life experiences of people close to them, to help make and justify conscience vote decisions in parliament. This is true for those voting both for and against such bills. Liberal MLA Bill Stefaniak, in opposition to the *Human Embryo (Research) Bill 2004*, said, ‘my wife has a metal valve in her heart and has benefited from scientific research and advances in medicine...had it not been available, she would, most likely, be dead right now’.³⁷

Perhaps even more strikingly, Labor MLA John Hargreaves, who had initially planned to vote against the *Human Embryo (Research) Bill 2004*, explained:

What absolutely changed my view on this matter was an encounter with a very good friend of mine who was rendered a quadriplegic by a gunshot wound. His quality of life was pretty ordinary before the shooting; it has now been devastated. If research is able to free him from being sentenced to a life in a wheelchair...then I think we have a responsibility to do something like that.³⁸

These are just some examples of a variety of personal experiences cited by ACT MLAs during these debates, suggesting that personal experience is a sufficiently strong influence not only to confirm parliamentarians’ conscience vote decisions, but actually to change them.

The second way in which personal experience can influence conscience vote decisions is via conversations with those personally close to MPs. While this may not always be publicly acknowledged, there are several cases in the ACT where it is. For example, during the human embryo research debate, Liberal MLA Steve Pratt admitted that ‘the wise counsel of

³⁵ Broughton and Palmieri, *op cit.*, offer the only other acknowledgment of personal experience we found. However, they use the fact that women parliamentarians in the Federal 1996 euthanasia debate use personal experience in parliamentary argument significantly more than their male counterparts to argue that women bring a different voice to parliament, rather than that women were more likely to be influenced by personal experience.

³⁶ B. Smyth, MLA, ACT Legislative Assembly Debates, Hansard [address], 1 April 2004, pp. 1569, 1571.

³⁷ B. Stefaniak, MLA, ACT Legislative Assembly Debates, Hansard [address], 1 April 2004, p. 1584.

³⁸ J. Hargreaves, MLA, ACT Legislative Assembly Debates, Hansard [address], 1 April 2004, p. 1591.

my wife in recent days has perhaps tipped me over to making the decision to support the *Human Embryo (Research) Bill 2004*.³⁹ In a similar case on the same issue, Liberal MLA Bill Stefaniak, also noted the influence of his wife's views on his vote decision. He explained, 'I have certainly talked to my wife about this research, and unlike Mr Pratt's wife, she is somewhat concerned'.⁴⁰

While these first two types of personal experience are of a conscious nature, the third is much less so and may be cumulative over time. A good example is our discussion of the influence of a person's gender. We suggested that one's sex is a predictive and not an influencing factor on conscience votes. Yet we also argued that one's personal experiences as either a male or a female — one's gender — can influence conscience vote decisions. This was particularly evident in the case of abortion. An MP's gender, by definition, cannot be removed from his or her life experiences, and therefore, unlike the previous examples, gender may not be a *conscious* influence on conscience vote decisions.

Finally, the personal may influence conscience vote decisions through personal ideology. This influence is of a different order from the three previous types of personal experience. Recall that a distinction was made between two possible types of party influence, one direct — including comfort within party majorities and fear of the repercussions of voting contrary to typical party views or the views of party leaders — and the other much less direct — the fact that parties tend to attract like-minded people and thus they tend to vote in a similar fashion even when party discipline is removed. We argued that while both of these categories can help explain the success of the predictive factor of 'party' in conscience vote outcomes, only direct party influences can properly be described as the influence of party. Indirect party influence is much better described not as the influence of party, but of that of personal ideology. Although one's personal ideology may be the result of one's personal experiences, this observation seems to stretch the influence of relevant personal experience too far. Personal ideology should be kept separate from relevant personal experience as a distinct influence of the personal, and is thus a third influencing conscience vote factor (along with relevant personal experience and direct party influences) on ACT conscience vote decisions.

To be clear, several conscience voting studies have included the personal characteristics of MPs,⁴¹ and one even uses the label 'personal ideology'.⁴² Yet these studies are interested in predicting conscience vote outcomes, and are looking for measurable characteristics. Longley, for example, argues that personal ideology is highly influential in conscience voting.⁴³ However, his 'personal ideology' is simply the sum of six variables: age; previous occupation; education; gender; Catholicism; and fundamentalism — and he found only three of these (previous occupation, education, and Catholicism) to have any influence in the abortion vote he studied. These types of variables might help predict conscience vote outcomes, but do not appear to explain adequately the actual influences of conscience vote decisions. For example, Pattie, Johnston and Stuart found that younger MPs were more likely to be 'pro-gay, 'pro-divorce' and willing to end restrictions on Sunday trading.⁴⁴ But this does not mean that the age of an MP is the influence. It is instead more likely that younger MPs have a greater tendency to be socially liberal, at least on these issues, than

³⁹ S. Pratt, MLA, ACT Legislative Assembly Debates, Hansard [address], 1 April 2004, p. 1583.

⁴⁰ Stefaniak, *op cit.*, p. 1584.

⁴¹ For example, Baughman, *op cit.*; Pattie, Johnston and Stuart, *op. cit.*; Hibbing and Marsh, *op cit.*

⁴² Longley, *op cit.*

⁴³ *ibid*

⁴⁴ Pattie, Johnston and Stuart, *op cit.*, p. 162.

older MPs. Indeed the complexity of the personal is borne out in Pattie, Johnston and Stuart's conclusion that in eighteen votes across eleven separate issues in the British Parliament (from 1979-1997), *no* variable other than party (including an MP's age, gender, education, previous occupation and religion) was consistently significant.

Conclusion

Despite a recent spike in conscience votes in the Federal Parliament⁴⁵ and elsewhere (seemingly related to advances in bio-technology, which are likely to continue), the current understanding of them is far from complete. Previous studies have generally failed to distinguish between predictive and influencing conscience vote factors, and offered four possible explanations; party membership, gender, religious affiliation, and the characteristics of constituents. By contrast, using a mixed methodology and distinguishing predictive from influencing factors, we have argued that while both sex and party in general may be useful predictive conscience vote tools, only direct party, relevant personal experience, and personal ideology, seems actually to influence conscience vote decisions made in the ACT. There was little evidence in the ACT to confirm the suggestion that MPs' religious affiliations, in particular Catholic affiliation, influence their conscience vote decisions in a socially conservative manner. The proposed influence of the characteristics of constituents appears similarly weak.

When conscience vote decisions are not determined by direct party influences, the ACT case study suggests they may be best explained by the influence of relevant personal experience and of personal ideology. To invert a feminist slogan, it seems the 'political is the personal'; and the personal should be taken more seriously in future conscience vote research. Finally, the significant methodological clarifications we have made — which have revealed much more than the usual practice of simply studying the outcomes of conscience vote decisions — opens up the possibility of taking a deeper look into conscience vote influences, and of moving beyond outcome-focussed conscience vote research. ▲

⁴⁵ From 1950 to 2007, 32 bills/issues have been decided by a conscience vote in the Federal Parliament. Between 1968 and 1979 there were nineteen bills/issues decided by conscience vote, then only three until 1996, and then five up until 2007. D. McKeown and R. Lundie, 'Conscience Votes During the Howard Government 1996 — 2007', Research Paper, no. 20, 2008 — 09, Information, Analysis and Advice for the Parliament, Australian Parliamentary Library, 2 February 2009.