Informal Institutions, Institutional Change and Gender Equality

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Introduction

Feminist scholars have long been interested in understanding gender inequality and how to achieve the social, economic and political changes that will lessen all forms of inequality. Huge changes in some women's social and economic status have occurred in many part of the world in the last fifty years. Nevertheless multiple and intersecting unequal power relations and male domination remain commonplace in many institutional arenas – including judicial and political systems - despite measures such as quotas and equality legislation. Changing institutions is therefore a fundamental part of the task of lessening gender inequality and yet the gender dynamics of institutions and institutional change are still poorly understood. Improving our understanding of the gender dynamics of institutions and institutional change is a key undertaking for feminist, if not all, social science as well as a public policy priority.[1]

There is therefore a widespread consensus among feminists and non feminists alike that institutions – understood here as the 'rules of the game' - profoundly shape political life. That institutions play a central role is therefore not a new insight for anyone studying governance, politics and policy-making. However over the last few decades there have been important developments in the ways in which institutions are analysed that have significant implications for the ways in which many scholars understand them. It is New Institutionalism (NI) that has provided some of the most important new ideas/approaches used to understand institutions in many social science disciplines - but particularly in sociology, economics, international relations and political science - since the 1980s. It revived an interest in institutions that had dwindled after the behavioural revolution displaced the 'old institutionalism' with its emphasis on formal institutional

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structures. Institutionalism in all its varieties – rational choice (RCI), sociological (SI), historical (HI) and now discursive institutionalism (DI) - continues to be a lens for analysing and understanding a huge range of social phenomena (Hall and Taylor 1996, Schmidt 2008). Despite the remaining gaps in our understanding of institutional creation, continuity and change – whether exogenous or endogenous, gradual or rapid - huge strides have been made in the development of neo-institutional analysis since scholars like March and Olsen (1984) pioneered the current debates. Despite remaining theoretical and methodological differences between the different variants, there now appears to be consensus about what institutions are, how to define them and the centrality of rules and norms. Indeed Mahoney and Thelen (2010) claim that 'despite many other differences, nearly all definitions of institutions assume that they are relatively enduring features of political and social life (rules, norms and procedures) that structure behaviour and cannot be changed easily or instantaneously'.

It has been increasingly recognised that a crucial part of any institution is not just its formal aspects – the formal 'rules of the game' and their enforcement - but also the role played by the informal – the norms, rules and practices – that may not be so visible or may even pass unnoticed or taken for granted by actors inside and outside of those institutions. Scholars have begun to ask important questions such as: how can we uncover the hidden life of institutions? How can/do informal institutions either subvert or facilitate change? And if they do play an important part in institutional change, should changing informal institutions themselves become an important focus? Are they more difficult and intractable than formal institutions, needing different change strategies? Along with much of the recent scholarship in this area, this paper argues that it is not possible to look at informal institutions in isolation or as separate - they need to be analysed alongside any formal institutions that they are linked to and interact with (Azari and Smith 2012, Levitsky and Slater 2011, Grzymala-Busse 2010).

A crucial part of achieving *gender equitable* institutional change is therefore to improve our understanding, not just the outputs of institutions, but also of the institutions themselves, in both

their formal *and* informal guises. This will help us to understand why the outcomes of institutional change are often not as hoped for, or those change efforts are subverted. The fate of women's policy agencies or the implementation of gender mainstreaming are often cited as examples of institutional change that has not always had the outcomes desired by its designers. Understanding informal as well as formal institutions and the interaction between them is therefore a crucial part of any project that aims to improve our knowledge of both institutions and institutional change. However, we are not currently very good at analysing informal institutions and it is still a relatively under-explored area within political science. To do this we need to develop new approaches, analytical frameworks and methodological techniques that can incorporate the formal and informal and their interaction into the gendered analysis of institutional change. We will then be in a better position to more convincingly explain phenomenon like the varying effectiveness of WPAs.

The fundamental questions that this paper seeks to address are therefore, if we are interested in promoting more gender equitable institutional change, what roles can and do formal and informal institutions and their interactions play in either facilitating or subverting that change? How can both formal and informal institutions and the interactions between them be used to promote that change? Using an approach informed by both Feminist Institutionalism (FI), New Institutionalism (NI), and some of the recent work on informal institutions, this paper will explore how we might begin to answer some of these questions. All three bodies of work can benefit from each other as at the moment none on their own are able to effectively analyse institutional change - until recently neither FI or NI been particularly good at understanding and analysing change or informal institutions, and NI and the work on informal institutions is largely ungendered. But this situation has been changing recently. The paper begins with a discussion of recent developments in the analysis of informal institutions. Building on new work by feminist instutitionalists, the next section considers how institutions are gendered, before the third section elaborates NI understandings of institutional change, and in particular some recent Historical Institutionalist (HI) work undertaken by Mahoney and Thelen (2010) amongst others, that is helpful for the endeavour

of understanding, particularly gradual endogenous, institutional change and how it is gendered. The final section of the paper attempts to bring all this scholarship together to explore how different forms of institutional change – primarily layering and conversion – fare as potential strategies to achieve gender equitable institutional change; and how we might analyse the roles played by formal and informal rules in determining the outcomes of those strategies.

Understanding Institutions: Formal and Informal

NI Interest in informal institutions has only come to the fore relatively recently, but there has been some significant work on informal institutions in the past. A number of scholars studying the established democracies have long recognised the importance of networks, the informal 'rules of the game' and the ethos of different kinds of institutions whether bureaucracies, executives or legislatures. But this has rarely been from an avowedly new institutionalist perspective whether it is studies of informal mechanisms in the EU or the US congress (Mathews 1960, Stacey and Rittburger 2003). Until recently more interest in informal institutions was displayed by scholars working on developing polities. However, even if informal institutions have long been studied in the context of developing polities, they have often been seen in primarily negative ways - as undermining good governance through phenomena such as particularism, clientelism, patronage and nepotism, and often involving illegal practices ie subverting and undermining formal institutions. It has also been commonly assumed that informal institutions would fade away once formal ones were sufficiently established and robust - namely that they were a primordial hang-over from previous eras and were often powerful because they faced weak formal institutions. While some still remain sceptical about their role, many scholars have reappraised this view of informal institutions arguing that in addition to their obvious importance, they are clearly durable and their role is not always negative and a hangover of 'tradition'. As a result a more nuanced view of informal institutions and their interaction with the formal has emerged that counters a largely negative one.

Much of this emerging literature has been influenced by neo institutionalism. For all NIs,

rules, norms and practices are centrally important and they have felt it necessary to distinguish between the different forms, and particularly between formally codified rules and more informally understood conventions and norms (Peters 1999). Exploring this distinction between formal and informal institutions has become an increasingly important focus in recent years. Leading this field in comparative politics, Helmke and Levistsky (2004: 727) see institutions as 'rules and procedures (both formal and informal) that structure social interaction by constraining and enabling actors' behaviour'. They define informal institutions as 'socially shared rules, usually unwritten, that are created communicated and enforced outside of officially sanctioned channels' in contradistinction to formal institutions which are 'rules and procedures, that are created communicated and enforced through channels widely accepted as official'. All institutions – whether formal or informal - are therefore are governed and enforced by sanctions, both positive or negative, but these vary considerably (Azari and Smith 2012: 40). The sanctions and enforcement of informal institutions for example often take the form of shunning, social ostracism and even violence rather than by legal recognition or through the power of the state and the other mechanisms used to enforce formal institutions (Grzymala-Busse 2010: 313).

There is therefore now a more sophisticated sense of the different roles played by informal institutions in relation to formal ones. Several different typologies distinguishing these varying roles are emerging (but all recognise that informal institutions can have positive or negative effects on the strength and functioning of formal institutions). Helmke and Levitsky (2004) see informal institutions as either: complementary, accommodating, substitutive or competing with formal institutions. In their study of established democracies, Azari and Smith (2012) argue that informal institutions can complete, exist in parallel to or co-ordinate formal institutions, while Grzymala-Busse (2010 claims that in transitional regimes in East Central Europe, they can replace, undermine, support or strengthen (by promoting competition between elites) formal institutions irrespective of strength of those formal institutions that they are interacting with. And Levitsky and Slater (2011) argue that informal institutions can trump, compete with, be congruent with formal institutions or

something in between.

Rather than seeing informal institutions as pre-existing and even as some type of residual category, scholars are also investigating the emergence and adaptation of informal institutions in different contexts. This new emphasis on the potential dynamism and mutability of informal institutions can make a significant contribution to the burgeoning discussions of the role of both formal and informal institutions and their interaction in institutional change. Interest is beginning to focus on the different factors that affect nature of that relationship in context of institutional change – namely looking at the different reasons for change, the different interactions and their outcomes. A key part therefore of explaining outcomes of institutional change is to integrate informal institutions into the analysis of the formal, but first we need to improve our analyses of informal institutions themselves.

Azari and Smith (2012: 41) have suggested that if we think of informal institutions as unwritten rules we need to assess them in terms of their content and scope, the nature of deviance and by whom is it rewarded/punished? But the difficulty of researching them is also recognized as the informal is much harder to discern and uncover than the formal – often requiring ethnographic methods like participant observation that are more frequently associated with anthropology than political science and are often frowned upon by political scientists as not sufficiently rigorous and unscientific (Radnitz 2011). Several scholars have begun to explore the interaction between the formal and the informal more systematically. Grzymala-Busse (2010) for example focuses on the interaction of existing informal institutions with new formal institutions in transitions in East Central Europe, arguing that this interaction influences both the kind of formal institutions that can emerge and the kind of informal institutions that are perpetuated. Getting away from notions of informal institutions as primordial, Kellee Tsai (2006) argues that new informal institutions can grow up as a response to formal institutions and that these can play a key part in endogenous institutional change. She sees the emergence of certain 'adaptive' informal institutions in China as a creative response to reconcile the demands of different sometimes incompatible formal institutions

(similar to Azari and Smith's notion of co-ordinating informal institutions). Other scholars highlight how as the result of an interactive process, formal institutions can change as a result of violations of or disatisfaction with informal institutions as actors may then mobilize to press for changes to formal rules to alleviate the problems (Azari and Smith 2012). Azari and Smith (2012: 43) argue that the processes that give rise to change at the formal/informal interface will play out differently depending on whether those informal rules are completing, in parallel or co-ordinating formal institutions. Formal rule change can for example fail because of an absence of completing informal institutions to fill in gaps and resolve ambiguities in those formal rules. The direction of causality therefore runs both ways. Both formal and informal institutions impact on each other.

In a recent attempt to develop a set of questions with which to interrogate formal and informal institutional change, Levitsky and Slater (2011) argue that there are several other factors which will help to determine whether formal rule change will take root or whether it is distorted or subverted by informal institutions. They (2011) argue that it is important to analyse why formal rule change occurs – is it internally or externally driven or as the result of a crisis? State capacity is important as well as the nature of actors involved. For example it is necessary to ascertain which actors make changes and in particular whether the rule makers are different to rule enforcers as this too can diminish the likelihood of formal institutional change taking root. Levitsky and Slater (2011) speculate that outsiders may have more success in changing formal rules that the existing old guard. The durability of the institutional designers can also play a role as well as perceptions about their durability – do other actors think they (and also their institutions) will last?

Informal institutions can therefore both hinder and enhance the implementation of formal rule changes. Levitsky and Slater (2011) argue that informal institutions are more likely to distort formal rule change rather than stymie it altogether. But the nature of the interaction is complex and has to be investigated taking into account the multiple factors discussed above – simple conclusions are not possible.

Gendering Institutions

A second area that has not yet received the attention it deserves from the majority of institutional scholars is the gendered character of institutions, despite the recognition of the importance of gender in many other sub-fields of social science. Mainstream NI scholars have largely neglected the gendered dimensions of institutional dynamics (Mackay et al 2010). The majority of new institutionalist research is gender blind, failing to consider issues of gender and rarely drawing upon relevant gender research (for partial exceptions, see Pierson 1996, Skocpol 1992). There is little mention in the new institutionalist literature of gender as an analytic category or women as institutional actors, and in the few cases where gender is mentioned, it is frequently treated as a static background variable (Mackay and Meier, 2003, Kenny 2007). However this does not mean that it is impossible to use any of the data generated by these scholars to undertake gendered analyses.

Of course, running parallel but largely separate to the mainstream, a huge body of gender and politics scholarship relevant to the gendered study of institutions does now exist. But, it too, has some limitations. It has tended to focus on gender-specific institutions and policies such as WPAs and equality policies. It has sometimes put too much emphasis on women's agency and not enough on investigating the nature of the structural constraints that can have negative effects on outcomes and so found understanding the internal dynamics of institutions and institutional change difficult. However some path-breaking work that can help us to understand the gender dynamics of all institutions, not just gender-specific ones, has begun, as a number of gender researchers - participating in the 'institutional turn' within gender and politics research - have started to explicitly engage with institutionalist frameworks and attempt to improve them. As a result some feminist work explicitly considers the uses of different variants of New Institutionalism for a Feminist Institutionalism (FI), as well as exploring the possibilities for each of these approaches to incorporate gender into its analyses (Mackay and Waylen 2009, Mackay, Chappell and Kenny 2010, Krook and Mackay 2011). But it too has yet to fully integrate the analysis of the formal and

informal and their inter-relationship into its analyses.

Feminist scholars for example have demonstrated how gender is deeply implicated in institutions (Chappell and Waylen 2012). Institutions are gendered in two ways, both nominally and substantively. This takes place nominally through gender capture (Goetz 2007) – it is men who have traditionally and continue to inhabit positions of power in greater numbers than women (Witz and Savage 1992). But increasing the numbers of women does not necessarily make a significant difference because institutions are also substantively gendered through a range of mechanisms that mean that institutions demonstrate gender bias. This bias emerges from social norms that are based on accepted ideas about masculinity and femininity for example associating masculinity with rationality, power, boundary setting and control and conversely associating femininity with its opposite – passivity, care, emotion and irrationality. Masculinity and femininity come in plural forms and these operate differently in different institutional settings with some forms of masculinity operating hegemonically (Connell 2002). We therefore see different forms of masculinity in evidence for example in the military and in the upper echelons of the British civil service and core executive (epitomised in the so-called 'Westminster model'). According to Chappell and Waylen (2012: 6) 'the institutional dominance of particular forms of masculinity has taken us from seeing gender operating only at an individual level, to viewing it as a regime'. Masculine power is therefore naturalized. But because masculine domination is not totally hegemonic and there are attempts to disrupt and change it and not all men and women will behave in the ways expected of them.

Therefore despite the huge strides that have been made, challenges remain in improving our understanding of institutions. One is to improve the analysis of the informal. A second is the incorporate gender as a key dimension that is all too frequently missing from current NI analyses of institutions thereby significantly detracting from their explanatory power. To integrate the two to analyse how the informal as well as the formal is gendered, scholars therefore need to delve beneath the often gender neutral appearance of institutions to uncover the myriad ways in which gender

plays out. But these are not easy tasks. Analysing both informal institutions per se and how they are gendered presents theoretical and methodological difficulties as both gender norms and informal institutions can be difficult to uncover. Both gender norms and informal institutions can often remain unperceived or unremarked as they are naturalised as part of the status quo. To date very little work of this kind has been undertaken by either NI or FI. This is particularly true in the context of institutional change. It now falls to the rest of the paper to try to push forward the gendered analysis of formal and informal institutional change. But first we need to see what current NI scholarship can tell us about how institutional change, particularly endogenous change, comes about before we can discern the roles played by formal and informal rules, norms and practices within these processes.

Institutional change

Different variants of new institutionalism have different understandings of institutional change. Sociological institutionalists (SIs) for example find it difficult to contemplate change as occurring endogenously. For them institutional change is most likely to be exogenous as a result of new interpretive frames or fields coming from outside. SI's understanding of institutions and how they function can lead to a tendency towards focusing on cohesiveness, functionalism and stability - rather than being able to accommodate conflict and change. For Rational Choice Institutionalists, institutions are ultimately co-ordinating mechanisms that sustain or are moving towards particular equilibria, and so significant change must also be exogenous. But as Thelen (2009) points out both frameworks conflate conceptually the institution and the behaviour – there are no gaps between an institution, its design and the enactment of rules that both reflect and reinforce it - and therefore both have problems in accommodating conflict and agency. In contrast a third form of NI, historical institutionalism (HI) has a view of institutions, not as either cultural scripts or co-ordinating mechanisms, but as legacies of historical struggles (Mahoney and Thelen 2010). HIs use concepts like path dependence and critical junctures to help them understand the role of interests

and their interaction with structures in shaping actors' strategies and preferences and in the emergence and development of institutions. Institutions and their rules, norms and practices therefore shape power relations with distributional consequences, disproportionately distributing resources to actors already with power – it is these power-distributional implications of institutions that motivates change. But HI until recently has been better at understanding continuity and stability, and exogenous rather endogenous, change.

However some HI scholars are now increasingly focusing on institutional – particularly endogenous - change and their work is particularly useful for our task. If institutions are sets of rules that are enforced or complied with, then the emphasis in understanding endogenous change must be on examining the gaps in enforcement and compliance and this requires us to unravel the inner life of institutions. As part of this endeavour it is important to understand how and why actors obey or do not obey rules. Within RCI and SI frameworks compliance is not really an issue. But if institutions are seen as self reinforcing and we put distributional issues at the centre then compliance becomes a variable to consider (Mahoney and Thelen 2010). Challenges and changes to rules, norms and practices therefore become a central focus of any analysis of change. But these challenges and changes can take a variety of forms. It can include the contestedness of the institutional rules themselves as well as how far there is openness in the interpretation and the implementation of institutional rules. There is sometimes a great deal of 'play' in the interpreted meaning of particular rules. Rules are therefore ambiguous and subject of political skirmishing as, for example, Sheingate (2010) argues. When circumstances change and new developments confound rules, it is possible to have rule creation or to extend existing rules to change institutions. Gaps therefore develop for a range of reasons according to Thelen (2009). There are often differences between the design of an institution and how it gets implemented on the ground which occur for a number of reasons. Rule makers and designers have cognitive limits – they never fully control the uses to which their designs are put. Institutions are often the result of political compromise so some ambiguity is built in. Institutions, because they instantiate power, are not

neutral. And of course over time, the context can change which opens up huge spaces for the reinterpretation of rules. HI scholars are therefore outlining the ways it is possible to get institutional change of an incremental endogenous variety in 'gaps' and 'soft' spots between a rule and its interpretation and enforcement as well as more clear-cut and exogenous change.

Gradual change often involves exploiting the 'play' in existing rules and rapid change involves their wholesale replacement. What form change will take is often dependent on the political context (and on the veto possibilities offered to defenders of status quo) and on the amount of discretion there is in existing rules. Understanding change in this way can accommodate both contestation and agency and allows us to explore the different forms of change that can occur. There have been some important recent contributions that allow us to identify different kinds of change, each with different roles for different actors (for example in terms of their strategies and goals) in different structural contexts, focusing on what happens to rules, their enforcement, interpretation and subversion (Streeck and Thelen 2005, Thelen 2009, Mahoney and Thelen 2010, Campbell 2010).

Mahoney and Thelen (2010) building on earlier HI work (Streeck and Thelen 2005), have identified four types of institutional change. The first is displacement. New institutions are created, either to replace old rules (this tends to be rapid and is often exogenous) or new institutions are created in direct competition with existing institutions (this is more likely to result in gradual change). So although not inherently a gradual form of change, displacement can be slow moving. But normally new institutions are created by actors who were losers under old system (usurpers), and where there is little discretion within the existing rules so new institutions have to be created and the defenders of the status quo usually have a weak veto. The second type of change is layering in which new rules are introduced alongside or on top of existing ones, but they are not in competition with them. Change is gradual and endogenous. Actors have some power to create new institutions but not enough to displace old institutions. This occurs in a context where defenders of the status quo often have high veto possibilities and not much discretion in the enforcement of

existing rules and therefore institutional challengers lack the capacity to alter the existing rules. The third form is drift – the impact of existing rules changes due to shifts in the environment so institutions have new meaning. Conversion is the final form of change. Actors do not have the power to change institutions or else they are sympathetic to them. They therefore have to work within the system and take advantage of the slack/ambiguity that exists within existing rules to get institutions to act differently. Change is therefore gradual and endogenous as existing rules are strategically redeployed as actors actively exploit the inherent ambiguities of institutions. But because of the ambiguity in the rules and the weakness of change actors there are likely to be problems with enforcement. Mahoney and Thelen's typology highlights the varying roles and power of a range of actors in different forms of change as well as the degree of continuity.

However at the moment there is little explicit discussion of the role played by the interaction between formal and informal rules in processes of change within these HI frameworks. Indeed the informal is rarely mentioned and rules are talked about primarily in very general terms without distinguishing whether they are formal or informal ones. But many scholars working on both informal institutions and HI analyses of institutional change share common ground eg an emphasis on the distinction between rule makers and enforcers, institutional design and its implementation. The HI change framework can therefore easily be extended by incorporating a distinction between the formal and informal rules into its analysis - as it already puts great emphasis on internal dynamics when considering gradual endogenous change and in particular factors like the slippage and ambiguity within rules. This will allow scholars to develop more sophisticated analyses of contestation which can show how actors use and create both formal and informal rules and how this can vary in different contexts – for example in cases of different types of institutional change such as conversion or layering.

Putting it all together!

Having assessed the state of the intellectual field, we now need to try to put together our

understandings of formal and informal institutions and their interaction, and how this plays out in processes in institutional change as delineated by historical institutionalists using a gender frame. This part of the paper is much more speculative and in places amounts to little more than suggestions as to how we might proceed. If we are thinking about how institutions and institutional change are gendered, we need to do several things. First we have to extend our analysis of the gendering of institutions to include the gendering of the formal and informal rules that constitute institutions, before we can look at their interaction and this plays out in examples of different types of institutional change. Lowndes and Roberts (forthcoming) have identified three ways to think about the gendering of rules. There are of course a variety of identifiable rules about gender; and rules have gendered effects; and the actors who work with in rules are also gendered. Formal rules about gender are relatively easy to identify. For example any rules that treat men and women differently in official and legal terms such as prohibitions on women voting or the range of prohibitions that remain on the roles that women can play in the military are usually widely publicised if not universally agreed with. Many institutional rules (but not all everywhere) are now formally gender neutral, for example around employment, political participation and education but a huge array of informal rules about gender are maintained such as dress codes and the sexual division of labour. These gendered informal rules interact and exist together with formal rules but can often pass un-remarked and unnoticed as they run in parallel to, complement/complete or subvert the formal rules and any attempts to change them. So for example, although there are often no formal rules forbidding men from wearing skirts as part of school uniforms or work dress codes, any infringement of the informal rule would be enforced using informal mechanisms of ridicule and social opprobrium. As a result the existence of these kinds of informal rule is rarely perceived as explicit sanctions only rarely if ever have to be invoked. The nature of these inter-relationships have not yet been investigated and specified systematically. S D of L example? Reforming formal rules may therefore end officially sanctioned gender bias, but it does not necessarily overcome all institutionalised forms of male bias and informal rules continue and may undermine formal rule

change.

Second, it is clear that we need to focus on the interaction between the formal and informal and the role of the informal in either upholding or subverting the formal in different contexts. Using the analyses outlined above, we can develop a hybrid model of relationship between formal and informal in gender terms. Intuitively we probably understand informal institutions as mostly playing a reinforcing role in maintaining the gender status quo and a subverting role when attempts are made to implement positive gender change. But in many ways, while probably often the case, these assumptions derive from quite a static notion of informal institutions as preserving the status quo and as long-standing. We need to have more dynamic models that can accommodate more scenarios – such as the emergence of new informal institutions and contexts where informal institutions can undermine the existing gender-unequal formal institutions. At the moment I have thought only in quite crude terms about how we can distinguish between informal institutions that play either reinforcing and subverting roles (and not extended this to any other forms such as parallel institutions). And it is of course necessary to distinguish between variants within reinforcing roles such as co-ordinating, or completing. We can envisage many scenarios where gendered informal institutions act to reinforce formal institutions by filling in gaps and so play a completing role when formal rules are vaguely specified. The two are therefore in sync when informal institutions play some form of reinforcing rather than undermining role. We might expect this to be the case most of the time. And this fits the pattern described above where informal rules about masculinity and femininity etc have served reinforce male domination of institutions. Egs? Parallel/subsituting role. We also need to identify informal institutions that play a replacement role when formal institutions are too weak or have been abolished or diminished in power or influence.

In gender terms we are probably more familiar with informal institutions subverting/competing with formal institutions when attempts are made to implement positive gender change but we also need to find other examples where new formal institutions have been created. As we have seen the causality for change can run both ways – namely change in informal

institutions of gender or gendered institutions can lead actors to change formal rules. Examples here might be when formal rules around marriage, illegitimacy, contraception, and abortion in certain cases have had to be changed in positive ways, through for example the granting of rights to illegitimate children, the introduction of civil partnerships and gay marriage, because informal rules (such as the widespread acceptability of unmarried heterosexual couples having children) were increasingly at odds with the formal. The RC church stands out as an exception here. Its formal rules about contraception have remained unchanged even though in may countries informal rules subvert the formal ones as priests informally sanction contraceptive use, but actors have failed to get changes to formal rules so the two are often out of sync (or have the informal rules replaced the formal ones in certain contexts?

We normally assume that formal positive gender changes will be brought about by gender equality entrepreneurs and often are subverted by informal rules. But what about cases where positive formal rule changes occurred for other, often instrumental, reasons? War-time is often a classic case when formal rules are changed, for example around women's employment and other activities in the public sphere to boost production as happened during the first and second world wars. But there are also examples of attempts to change informal gender rules but not to increase gender equality when a formal rule change would be difficult to justify. Again, during the second world war the British government tried to alter dress codes as it wanted women to have short hair for safety reasons as they were now working in factories and so attempted to make new shorter hairstyles fashionable. A 'democratic' government would have found it difficult to institute formal rules that women had to cut their hair short even in wartime.

We can now attempt to investigate how these factors play out in different types of institutional change which have aimed to bring positive gender change. What has been outcomes of different strategies attempting achieve positive institutional change in gender terms and what roles have formal and informal institutions played in these outcomes? Are some types of change more likely to be effective than others? Are some more prone to subversion than others? And are there

strategies that institutional designers can implement that will have some capacity to prevent subversion? We will focus primarily on layering and conversion as the two change strategies that are likely to used most frequently but also briefly consider the potential for displacement and drift.

The first form of change outlined by HIs such as Mahoney and Thelen is displacement – the wholesale replacement of old rules with new ones. It is likely to be relatively rare as a gender change strategy, as it relies on the absence of a strong veto. It is rare for gender equity actors to have sufficient power or the opportunity to achieve wholesale displacement in the absence of strong opponents. Therefore it is unlikely that displacement will be a widespread or realistic strategy for achieving gender equality. There are however some other cases of institutional displacement that are worth investigating where the creation of new institutions has had important gender dimensions, in part a result of the considerable effort put in by gender actors to ensure that new institutions did incorporate gender equity concerns. Several post conflict constitutional settlements provide examples (such as in South Africa and Northern Ireland) when the existing political systems were replaced by newly designed ones, as does the creation of some entirely new institutions such as the ICC and the Scottish parliament at the international and subnational levels respectively. But a post conflict context is an unusual situation where many pre-existing rules are swept away, veto powers are often small and this gives all actors **potential** opportunities to shape rule making and it is often new actors who are key rule makers. But it also requires the existence of and active intervention by significant gender entrepreneurs to make this happen. Many actors, including gender entrepreneurs, had high hopes of these new formal institutions and their capacities as it was envisaged that they might have something akin to a blank slate with a minimal legacy from pre-existing formal or informal institutions.

It is therefore important to ascertain how far the new formal rules take root or get distorted or symied. A number of observers have argued that even new institutions are still subject to 'nested newness' (Mackay 2009). Old formal and informal institutions can still act to shape the new institutions as they often provide the default position when institutional designers are looking for

models as to how the new institution should be and act. Rule makers are often not rule enforcers who can remain in place from the previous era. A range of actors can therefore maintain their capacity to break or subvert rules, and some may even have increased veto power in the new context such as the traditional leaders in South Africa who campaigned to defend customary law in the face of equality measures. And, as shown by Meryl Kenny (2011) in her study of the Scottish Labour party selection procedures for the new Scottish parliament, actors often slip back to doing things in the old ways,which in this case was to still favour potential male candidates over female ones. It is also likely that the new formal institutions will lack completing or complementary informal institutions which will be particularly important if there is any ambiguity in the formal rules. And ambiguity as a compromise or even contradictory formal rules are sometimes built into new formal institutions to resolve contestation in the process of institutional design (for example as seen in the role of customary law in the new South African constitution). The development of new adaptive, completing or co-ordinating institutions is then needed. Overall therefore we can see how mechanisms remain in place that can still distort the operation of new formal rules.

Drift is the other form of change that appears unlikely to be gender justice strategy deliberately adopted by change actors. It is very slow moving and relies on changes to the external environment to give formal institutions new meaning rather than rule change achieved by the deliberate actions of change actors. This is not to say that drift does not have potentially important gendered impacts. The oft quoted example are changes to the welfare state post 1940 (Hacker etc?). Societies changed at the same time as formal rules around welfare were maintained. One of the biggest changes for example was the erosion of the male bread winner model that many welfare states were built around in part a consequence of the large increases in female employment.

More likely gender equity strategies are layering or conversion because they are gradual and endogenous and potentially more achievable in contexts where actors have some power to actively create new rules or use existing rules in creative ways but not enough power to to displace old formal rules. Indeed this has probably been the most widely used gender equity strategy to date.

We can identify a number of examples of institutional change through layering – particularly the creation of Women's Policy Agencies (WPAs) and the implementation of gender mainstreaming in the bureaucratic arena, and the introduction of quotas in the electoral arena. All three have become very widespread globally and all have been seen by their advocates as potentially significant gender equity strategies with the capacity to effect institutional change. But their effectiveness also varies considerably in different contexts. And their detractors claim that none of them have the capacity to fundamentally re-gender masculinist institutions. It is important to try to identify the factors that influence outcomes of these efforts. However much of the large body of research to date has focused on feminist actors, rather than how the new institutions have operated more generally.

Building on the previous discussion, we can start by considering some basic questions. First why these new formal rules are introduced? Was it because of key actors within institutions together with allies outside of institutions pressuring for formal rule change, or as a top-down measure imposed because of external pressure (eg such as establishing a WPA to comply with the acquis communitaire for EU entry)? Second we need to assess the power of the institutional designers and their opponents? Is the institution (and its designers) seen as durable eg is it perceived as likely to survive a change of government? WPAs have been established in many contexts where their creators have varying amounts of power. The design and location often reflects this – does the WPA have a significant amount of resources, where is it located (in the centre of the core executive with oversight functions or in an outlying weak department) and how much capacity to create and implement policy or get others to do this do they have? The original brief, location and resources of SERNAM - the WPA established by the centre-left coalition government in the aftermath of the transition in Chile - was reduced as a result of opposition from the powerful Right. Are the rule enforcers same as rule makers? One of the problems identified with gender mainstreaming has been bureaucratic resistance from those charged to implement mainstreaming particularly lower down in organizations, And there is often a dearth of formal institutional rules (imposing monitoring and evaluation) that can ensure there is institutional knowledge of whether

implementation takes place and can enforce effective sanctions if it does not. It can be argued that the contrasting fate of gender mainstreaming in the UN and the World Bank in the fifteen years up to 2006 demonstrates how informal rules and institutional norms and practices can affect how new rules are implemented (distorted and even stymied depending on the context?) (Waylen 2008).

The outcomes are therefore complex and contradictory. The UN, particularly in realm of human rights regime, proved a relatively easy institution to get some vague and general formal rule changes around gender equity and mainstreaming in the 1990s. There was no powerful veto and the UN institutions were relatively permeable and open to outsiders (there was interchange of personnel, and the framing of gender issues by outside actors could resonate with UN human rights discourses). The formal rule changes were seen as a success for gender equity. But there was considerable disillusionment as UN human rights organizations lacked capacity. In the face of the (vague) formal rules, no clear mandates were established at the top of UN human rights institutions to adopt gender mainstreaming in practice and how far different committees implemented it depended on the individuals on the committees (Riddell-Dixon 1999). Lower down, Charlesworth (2005) reports that it appears even less changed as there were limited resources, skills and even clear resistance to gender mainstreaming. Therefore despite the apparent success in terms of the adoption of formal rules using the language of mainstreaming, little changed in terms of UN human rights institutions and practices.

In contrast the World Bank is a relatively closed institution, in which it is more difficult for gender actors (whether inside or outside) to pressure for change to formal rules. There has been less interchange with gender equality actors outside the Bank and given the dominance of a particular (neo-liberal) world view within the Bank it has been harder to frame gender equality within that worldview in ways that also resonates with many gender activists outside. However the World Bank did adopt a technocratic version of gender mainstreaming framing it as the 'business case for gender equality'. But analysts have also reported familiar problems – bureaucratic resistance, a lack of resources resulting in only a small number of gender experts often at country level (in comparison

for example with environmental issues) and no compulsion to enforce rules such as gender audits (Hafner-Burton and Pollack 2002, Zuckerman and Qing 2005). But we have also seen relatively effective implementation of formal rules with gender focal points established as per the formal rules because it is an organization with greater capacity and some senior staff such as Bank president James Wolfensohn have publicly emphasised the Bank's commitment to gender mainstreaming and its version of gender equality. Therefore while gender mainstreaming has been a relatively low priority for the Bank, there have been some demonstrable changes in policies, personnel and procedures. It would be important to ascertain how far the Bank has had a greater capacity to get informal institutions to change within the Bank?

Quotas - a new institution on top of the existing legislative rules in the electoral arena - provide the final example of institutional layering. Most scholars agree that new rules are needed to significantly increase women's representation as there is generally little leeway within existing electoral rules to increase levels of women's representation without rule change. Quotas can be effective – but it depends how rules drawn up (eg whether there are placement mandates) and whether they are enforced (for example whether party lists which fail to meet the criteria are disqualified). Otherwise quotas can be rendered ineffective if there is sufficient play in the rules to allow subversion in their enactment (for example Brazilian parties can leave gaps on their lists rather than nominate women candidates). In these contexts, the dominant norms and informal rules still allow actors to behave in ways that subvert the formal rules. But rules and norms can also be adapted and changed subsequently. In Argentina quota laws were initially ineffective until the formal rules were strengthened and properly enforced with effective sanctions (namely the rejection of namely electoral lists which did not comply). Whereas we have seen in France the relative acceptance of a system of fines that enable larger more affluent parties to pay to ignore quotas while smaller poorer parties have to comply leading us to ask whether this is the creation of new informal rules to undermine the new formal ones?

Therefore although the formal rules changed, WPAs, gender mainstreaming and quotas have

been subverted to varying degrees by continuation of pre-existing norms and rules, badly designed and ineffective new formal rules as well as a lack of enforcement in many contexts. So the difference between the institutional design and on the ground implementation can be marked in each case. We need also to discern whether completing or complementary informal institutions emerged where institutional change has been successful and new subversive informal institutions have emerged where change has been distorted or stymied.

Another potential gender equity change strategy that perhaps deserves more attention than it has received from scholars to date is conversion. All too often actors keen to achieve change do not have enough power to create new institutions but have use ambiguity within the existing system. This makes it a relatively likely but also a risky gender justice strategy for change actors. One potential example in the executive arena is the Presidency of Michele Bachelet. Michele Bachelet was the first female president to be elected in Chile and was seen as a relative 'outsider' despite having held two cabinet posts. She took office in 2005 with an explicit gender agenda promising to appoint new faces (including women) and implement some positive gender change. Although Chile is considered to have a powerful presidency, preliminary research (eg Thomas 2011) has indicated that Bachelet could not create new institutions but appears to have attempted a strategy of conversion to interpret and enact existing rules in new ways to bring about change. Bachelet used a range of mechanisms - she strengthened the women's policy agency SERNAM, increased its resources and gave greater significance to the Council of Ministers for Equality of Opportunity created by the previous president, attempting to alter the informal norms by attending meetings and expecting ministers to do the same. Thomas reported that ministers and officials started to behave differently because they knew gender issues were more important for Bachelet than previous governments. So ministers who previously had been late or not bothered to turn up at Council gave it a higher priority once Bachelet started attending meetings and asking them questions. One economy minister told Thomas (2011) : 'when the person who appointed you and can dismiss you makes gender equality a priority, her ministers pay attention no matter what their personal politics'.

Bachelet also used pre-existing formal mechanisms such as presidential decree and urgencies to achieve change in legislation. But her opponents also had considerable veto power through institutional mechanisms such as constitutional tribunals to block change. If we examine several policy areas – such as welfare (including pensions, health and day care) and reproductive rights it is possible to see both presidential action and opposition blocking tactics at work, particularly in the area of reproductive rights. The broader institutional context of Chilean politics also had an important impact. After the transition to democracy informal institutions grew up around the perceived need for consensus and negotiation between the ruling coalition and its opponents which impacted on efforts to create institutional change (Siavelis, Franceschet). This informal emphasis on consensus gave the Right-wing opposition considerable power to attempt to block change in contentious areas such as reproductive rights. Bachelet could therefore use both formal and informal rules to effect changes for example in the provision of emergency contraception, but opponents also resisted them using formal and informal institutions.

Conclusions

This paper has provided an initial exploration of some of the issues to consider in an analysis of informal institutions and gender equitable institutional change to help us explain both why gender equitable institutional change is often difficult to achieve, and to help us develop more effective strategies. It has used some of the recent political science work on informal institutions that sees them as unwritten rules, and argues that to understand the roles played by informal institutions, they have to be analysed together with any formal institutions that they interact with. It has combined this with some insights from the HI analysis of institutional change and recent feminist institutionalist work to look at how we might understand some examples of attempts to change institutions in ways that enhance gender equity. A brief discussion of change through displacement, layering and conversion showed how informal rules and norms can play an important part in the extent to which new formal rules can take root but outcomes are not straightforward but complex.

This can then help us to understand cases where outcomes of formal rule change have not been as expected which has often been the case in attempts to improve gender equity.

It has also highlighted that there is still much work to be done to improve our analyses of informal institutions and in particular the varied roles they can play in subverting or supporting different forms of institutional change. A key consideration for gender equity entrepreneurs in a context where they have secured formal rule change is how to ensure that pre-existing informal institutions do not have a negative impact; and ideally how to ensure that new adaptive, completing or complementary informal rules are established. Or in the case of change through layering or conversion that new co-ordinating informal institutions are created. Institutional designers/rule makers need to be aware of who enforcers will be, and whether they can they instil a sense of permanence and longevity so that people take new rules seriously? And of course power relationships play an important part – actors have to adjust collective expectations to the altered framework of rules so that they reinforce the formal rule changes rather than thwart intended impact of formal reform, which more likely to happen if certain power relationships are in play. Given that gender change is likely to take place in contexts were there is significant opposition with considerable veto power and gender actors themselves have limited power, this question of how to minimise the extent that informal institutions act to subvert, distort or stymie formal rule change is crucially important.

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