'Gendering' New Institutions workshop – 7-8th November 2013

Chancellors Hotel and Conference Centre, Chancellors Way, Manchester

Thursday 7th November

12.30pm	**Arrive and registration**
1.00pm	**Lunch (Conservatory/Lounge)**
1.45pm	**Welcome**
2.00pm	Panel 1: **Institutional Creation and Design at times of transformation**

This panel will focus particularly on the design of new institutions looking, for example, at the role of actors within those processes. The empirical cases will be largely drawn from the settlements that emerged from transitions to democracy and post conflict institution building.

Chair – Francesca Gains (University of Manchester)

Paper 1: Georgina Waylen (University of Manchester) – **A Seat at the Table? Gender and Multi-Party Negotiations in South Africa and Northern Ireland**

Paper 2: Laura McLeod (University of Manchester) - **Hoping for Peace: Female and Feminist Participation in post-conflict constitutional design in Bosnia-Herzegovina**

Paper 3: Aili Mari Tripp (University of Wisconsin-Madison) – **Women's Movements and Constitution Making in Post-Conflict Africa**

Discussants – Christine Bell (University of Edinburgh)/Shireen Hassim (University of Witswatersand)

3.45pm	**Afternoon Tea (Conservatory/Lounge)**

4.15 – 6.00pm   **Roundtable: Gendering Institutional Design Processes and negotiations**

The participants, who are academics were active within negotiation processes surrounding the design of new institutions, will reflect on their experiences

Chair – Laura McLeod (University of Manchester)

Participants – Sheila Meintjes (WNC/University of Witwatersand), , Alice Brown (Scottish Parliament/University of Edinburgh), Valerie Oosterveld (ICC/University of Western Ontario)

Commentators: Fionnuala Aolain (University of Ulster/University of Harvard), Fiona Mackay (University of Edinburgh)

7.00pm   **Drinks Reception (Conservatory/Lounge)**

7.30pm   **Workshop Dinner (C.P. Scott Room)**

Friday 8 November

9.00am   Panel 2:   **The Institutionalisation of 'New' Institutions**

The papers in this panel will consider what happens in practice – how 'new' these institutions really are, the contestation surrounding them and the interplay between formal and informal.

Chair: Catherine O'Rourke (University of Ulster)

Paper 4: Louise Chappell (University of New South Wales) – **Seeking victim-centred gender justice at the International Criminal Court: new paths and old obstacles**

Paper 5: Fiona Mackay (University of Edinburgh) – **Institutionalising new rules: the Scottish Parliament revisited**

Paper 6: Rachel Johnson (University of Manchester) – **"Transforming a notorious icon of repression into its opposite": The South African Constitutional Court and the Transformation of the Judiciary 1994-2013**

Commentators: Laurel Weldon (Purdue University), Sheila Meintjes (University of Witwatersand), Fionnuala Aolain (University of Ulster/Harvard)

10.45am   **Tea and Coffee (Conservatory/Lounge)**

11.00am **Roundtable: Researching New Institutions: Different Methods and Approaches**

The participants will reflect, from a range of perspectives, on the different methods and approaches that can be used in the study of institutions

Chair – Valerie Oosterveld (University of Western Ontario)

Participants – Vivien Lowndes (University of Nottingham), Catherine O'Rourke (University of Ulster), Rachel Johnson (University of Manchester), Laurel Weldon (University of Purdue), Joni Lovenduski (Birkbeck College, London) and Meryl Kenny (University of Leicester)

12.45pm **Lunch (Conservatory/Lounge)**

1.30pm **Roundtable: Critical Reflections and Future Agendas**

Chair – Alice Brown (University of Edinburgh)

Participants – Aili Tripp (University of Wisconsin-Madison) Christine Bell (University of Edinburgh), Shireen Hassim (University of Witwatersand), Louise Chappell (University of New South Wales), Georgina Waylen (University of Manchester), Vivien Lowndes (University of Nottingham)

3.00pm **Afternoon Tea (Conservatory/Lounge)**

3.30 – 4.30pm **Advisory Board meeting**

4.30pm Close

Abstracts

Paper 1: 'A Seat at the Table?' Gender and Multi-Party Negotiations in South Africa and Northern Ireland

Georgina Waylen, University of Manchester

This paper will examine the multiparty negotiations that took place in South Africa between 1992 and 1994 leading up to the first non racial election and in Northern Ireland between 1996 and 1998 that culminated in the Belfast (Good Friday Agreement). It will examine how the negotiations were gendered looking not only at the participation of women but also at the processes themselves and the outcomes.   The paper will explore how far opportunities existed for critical actors to intervene in these instances of the creation of new institutions to get gender concerns included. It will also assess how far existing norms, rules and practices, both formal and informal, constrained actors. To develop such gendered analyses of these two post conflict settlements, we need to look at the broader institutional context, the processes whereby the settlements are negotiated and designed and how these are gendered. The objectives of the in-depth comparison are to discover the circumstances that can facilitate women's involvement, what forms their involvement can take, and what factors determine the different institutional outcomes. The cases share some characteristics: they both had high profile settlements reached at a similar time (in the 1990s after the end of the cold war but prior to the passing of UNSCR 1325) but also significant differences. Both cases, Northern Ireland and South Africa, had some involvement by women actors organizing as women within the negotiations that ended the conflict and some positive institutional outcomes in gender terms. But there were differences in the form that participation took and in the outcomes. The paper will argue that in order to understand the different circumstances and explain the different outcomes, it is necessary to analyse the pre-existing set up, the nature of: the conflict, the peace process and the constitutional outcomes for each case as well as undertake more detailed analyses of the actual negotiations and the institutional processes.

Paper 2: Hoping for Peace: Female and Feminist Participation in post-conflict constitutional design in Bosnia-Herzegovina

Laura McLeod, University of Manchester

Post-conflict institution-building is generally seen as a moment of displacement, where sudden change sweeps away what came before, and in this regard, the process of writing and making a new constitution is seen as a moment for hope. For feminist activists, the new constitution can be seen as an opportunity to create, push for and achieve gender-equality and gender-justice changes. One way in which this is thought to be possible is through ensuring a critical mass of women at the negotiation table, and recent international practices (such as UNSCR 1325) stress the need to increase female participation in all post-conflict processes, including the establishment of a new constitution. However, there has been a sense of feminist disappointment – not only at the lack of female bodies present at the table, but also about the lack of feminist bodies at the table. The first half of this paper maps the different ways in which women – acting as feminists or not; in formal and informal positions – were involved in the negotiations process which eventually culminated in the Dayton General Framework Agreement that ended the civil war in Bosnia-Herzegovina in November 1995. The role played by women on international negotiating teams and the attempts of local women to be involved in the negotiation processes are drawn out. The second half of this paper

explores the different ways in which feminist organisations in Bosnia-Herzegovina have participated and responded to attempts to establish a new, permanent constitution for Bosnia-Herzegovina (most notably in 2006, 2008 and 2009). The close exploration of female and feminist hopes for constitutional reform in Bosnia-Herzegovina since 1994 highlights how the participation agenda in processes of peace building could be addressed

Paper 3: Women's Movements and Constitution Making in Post-conflict Africa

Aili Mari Tripp, University of Wisconsin-Madison

Women's movements seized on the end of conflict in Africa over the past two decades to advance a women's rights agenda through peace accords, through constitutional, legislative and electoral reforms, as well as through the introduction of quotas. This paper, based on a comparative study of postconflict countries, focuses on the ways in which women activists were able to introduce constitutional changes affecting gender relations. It also looks at the reforms themselves, which pertain primarily to equality, customary law, anti-discrimination, violence against women, quotas, citizenship rights, and other such concerns.

Paper 4: 'Seeking victim-centered gender justice at the International Criminal Court: new paths and old obstacles'

Louise Chappell, University of New South Wales

The victims redress provisions of the Rome Statue are one of its most innovative aspects, creating a hybrid International Criminal Court able to pursue retributive and restorative approaches to justice. This paper considers how these victims' rights provisions have intersected with gender justice concerns at the ICC in its first decade in operation. The paper uses Nancy Fraser's trivalent model of gender justice to examine whether the Court's victim's redress framework has enabled greater *recognition* and *representation* of women and men's experience of war and conflict and the *redistribution* of resources to prevent future violence, especially that which is sexual and gender-based. The paper points to some important advances across these elements of gender justice which have been enabled by the new formal rules of international criminal law contained in the statute, including greater recognition of the voices of victims of sexual violence in the courtroom and for 'transformative' assistance and reparations measures to address gender inequalities. Using a feminist institutionalist approach, it also considers where these new rules have been distorted or challenged through the ongoing influence of gender-biased norms, including women's reputation as unreliable witnesses and the marginalization of gender justice issues in resourcing decisions.

Paper 5: Institutionalising new rules: the Scottish Parliament revisited

Fiona Mackay, University of Edinburgh

This paper examines devolution reforms in the UK, in particular the creation of new set of institutions that comprised the new Scottish parliament, and the ideas and practices associated with 'new politics.' At its inception, the Scottish parliament was regarded as a case of successful

'constitutional engineering' where conducive conditions and strategic mobilization resulted in tangible outcomes in terms of gender equality. The inclusion of women and the promotion of gender equality were seen as emblematic of a wider aspiration for a more inclusive politics departing from the zero-sum games of the Westminster model.

In theory, successful intervention to insert new actors, new values, new structures and new processes may profoundly influence the future developments of an institution by 'locking in' elements of gender equity and gender justice, and counteracting historic gender power imbalances. However the formal creation of a new institution is only the first step. What follows is a longer process of transition and uncertainty whereby an institutional blueprint is put into practice and institutionalized. Innovation in formal architecture and structure may or may not translate into changes in operating rules and informal conventions, everyday practices, institutional capacities and outcomes.

Building upon the insight that institutions require 'active maintenance', this paper examines the ongoing contestation of new rules and norms in the Scottish parliament in its first decade. In particular it discusses why particular connotations of 'newness' regarded as attractive at the stages of reform advocacy and institutional creation may come to be regarded as liabilities during subsequent processes of institutionalisation. This explains the paradox in the Scottish case of actors eschewing the 'old' Westminster model in the reform phase and (to an extent) in the design phase, but reverting back to Westminster modes in the institutionalisation phase, often with alacrity, as a short hand for legitimacy. This demonstrates the enduring legitimacy of old masculinised rules and norms in political institutions.

Paper 6: "Transforming a notorious icon of repression into its opposite": The South African Constitutional Court and the Transformation of the Judiciary 1994-2013

Rachel Johnson, University of Manchester

The South African judicial system was in the early 1990s overwhelmingly male and white and was widely perceived to have done more to uphold and legitimate the apartheid system than advance the principles of justice and human rights in the face of that system's injustices. The judiciary and the law itself lacked legitimacy in South Africa but were also central to the transition process itself which was built around a constitution which needed a court system to enforce its application. South Africa's constitution making took place in stages, with an interim constitution providing the framework for the writing of a final constitution by a democratically elected parliament. The compromise reached on the judiciary was to establish a new court with jurisdiction over constitutional matters to ensure the new rights enshrined in the constitution would be protected, and to work towards the transformation of the judiciary through a new appointments process. The South African Constitutional Court, once established, played a key role in the transition, ensuring the final constitution written by the Constitutional Assembly 1994-1996 complied with the framework of thirty four agreed-upon principles. The Court was simultaneously a product of compromise, a means of enforcing that compromise and a vector for transformation. This paper explores these complex dynamics of institutional creation in the context of South Africa's transition to democracy. It pays particular attention to the coupling of institutional newness and demands for an appropriately gendered justice system – a Court that would be representative of South African women but that would also advance the non-sexist principles of the Constitution and pursue its transformative agenda. This paper unpicks the controversies that have surrounded the Judicial Services Commission

appointments process and its perceived failure to bring enough female bodies into the judiciary and the interrelated concerns of South African feminists that the Court has not yet developed a transformative gender equality jurisprudence.