

Informal Institutions, Institutional Change and Gender Equality

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Georgina Waylen

Politics, School of Social Sciences

University of Manchester, M13 9PL

georgina.waylen@manchester.ac.uk

+44 161 861 9122

Abstract

This paper makes two claims: insights from gender research improve understandings of informal institutions and institutional change; and studying informal institutions helps scholars understand the gap between formal institutional change and outcomes. Informed by institutional analysis and feminist institutionalist scholarship, it explores the relationship between informal institutions, institutional change and gender equality, using gender equality to scrutinise issues central to institutional change, demonstrating that institutional analyses improve when gender dynamics are incorporated. Showing the gendering of power relations highlights power in institutional change in new ways, improving understandings of why institutional change rarely happens as intended by institutional designers.

Key Words

Gender equality, formal institutions, informal institutions, feminist institutionalism

Introduction

Interest in informal institutions, and the part that they can play in institutional change, has burgeoned within comparative politics and institutional analysis in recent years. This paper makes two claims: first that insights from gender research can improve our understanding of informal institutions and their role in institutional change; and second that the study of informal institutions can also help gender scholars better understand the gap that sometimes exists between formal institutional change and its outcomes. The paper does this by employing an approach informed by both institutional analysis and gender scholarship to explore the analytical relationship between informal institutions, institutional change and gender equality. In addition to focusing on gender equality as important for its own sake, using gender equality as a lens through which to scrutinise some other issues central to institutional change helps us to demonstrate first that institutional analyses are improved if gender dynamics are incorporated. Showing how power relations are gendered highlights the central importance of power in institutional change in ways that have hitherto been neglected. Second it improves our understanding of why institutional change does not always bring the results intended or hoped for by institutional designers.

Gender scholars have, of course, 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 equalities legislation. Changing institutions is therefore a fundamental part of lessening gender inequality and yet the gender dynamics of institutions and institutional

change are still poorly understood. Improving our understanding is a key undertaking for feminist, if not all, social science as well as a public policy priority.

There is therefore now a widespread consensus among feminists and non-feminists alike that institutions profoundly shape political life. That institutions play a central role is not a new insight. However recent developments in institutional analysis have had a significant impact on how many scholars understand them. Since the 1980s New Institutionalism (NI) in all its variants (which currently includes *at least* four - rational choice, historical, sociological and discursive institutionalism) has provided important new ideas/approaches (March and Olson 1984, Hall and Taylor 1996, Schmidt 2008). Although theoretical and methodological differences remain, there is now some consensus among new institutionalists about what institutions are, how to define them and the centrality of rules and norms. Indeed Mahoney and Thelen (2010, 4) claim that '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 is increasingly recognised that not just the formal aspects – the formal 'rules of the game' and their enforcement – are crucial. The informal aspects of institutions – the norms, rules and practices – often less visible or even passing unnoticed or taken for granted by actors inside and outside of those institutions, are also central. Scholars are now trying to uncover the hidden life of institutions, asking how can/do informal institutions either subvert or facilitate change. And if they play an important role in institutional change, should changing informal institutions become a more important focus? Are they more difficult and intractable than formal institutions, needing different change strategies? In common with recent scholarship, this paper argues that informal institutions cannot be looked at in isolation or as separate - they must be analysed alongside any formal institutions that they are linked to

and with which they interact (Azari and Smith 2012, Levitsky and Slater 2011, Grzymala-Busse 2010).

A crucial part of achieving *gender equitable* institutional change (understood here as any institutional change that contributes to lessening gender inequalities) is therefore to improve our understanding, of not just the outputs of institutions, but also the institutions themselves, in both their formal *and* informal guises. This will, for example, help gender scholars to understand why the outcomes of institutional change, such as the creation of women's policy agencies (WPAs) and the implementation of gender mainstreaming, are often not as hoped for, or how change efforts are subverted. New approaches, analytical frameworks and methodological techniques that incorporate the formal and informal and their interaction will bring improvements to the gendered analysis of institutional change. We will then be in a better position to more convincingly explain phenomenon like the varying effectiveness of quotas and WPAs.

Among the questions that this predominantly analytical paper addresses are therefore: what roles can and do formal and informal institutions and their interactions play in either facilitating or subverting gender equitable change? How can both formal and informal institutions and their interaction be utilized to promote that change? Using insights from gender scholarship; institutional scholarship (and historical institutionalist analyses in particular); as well as recent work on informal institutions, this paper explores how we might answer some of these questions. All three bodies of work can benefit from each other as currently none can effectively analyse institutional change. Until now much gender scholarship and institutional work has not been good at understanding change or informal institutions, and both institutionalist scholarship and the work on informal institutions is largely ungendered. But, as we will see, this situation is changing. The paper first discusses

recent developments in the analysis of informal institutions. The next section builds on new feminist scholarship to consider how institutions are gendered, before elaborating (historical) institutionalist understandings of institutional change that are helpful for analysing how, particularly gradual endogenous (internally driven), institutional change, is gendered. Illustrating its arguments with empirical examples, the second half of the paper then brings this scholarship together to explore some different forms of institutional change – primarily ‘layering’ and ‘conversion’ – as potential strategies to achieve gender equitable institutional change, and the roles of formal and informal rules in determining their outcomes. It concludes by reflecting on the implications for the more general analysis of informal institutions, institutional change and the strategies that actors might adopt to ensure the effectiveness of efforts to change institutions.

Understanding Institutions: Analysing the Informal

Some scholars studying established democracies have long recognised the importance of networks, the informal ‘rules of the game’ and the varying ethos of different institutions whether bureaucracies, executives or legislatures like the US congress (Mathews 1960). But rarely was this from an avowedly New Institutional perspective. Until recently, scholars working on developing polities displayed more interest in informal institutions. However, these were often seen in negative ways - undermining good governance through particularism, clientelism, patronage and nepotism, and often involving illegal practices – namely subverting and undermining formal institutions (O’Donnell 1996, Lauth 2000, Pejovich 1999, Casson et al 2010). It was often assumed that informal institutions would fade away once formal ones were sufficiently established and robust - that they were a primordial hang-over and powerful because they faced weak formal institutions. While some scholars remain sceptical, many have reappraised this view arguing that, in addition to their obvious importance, informal institutions are clearly durable and not always a hangover of ‘tradition’ (Radnitz 2011). As a result, a more nuanced view of informal institutions and their interaction with the formal to counter the predominantly negative one has emerged (Helmke and Levitsky 2004, 2006). But before we can integrate them into our explanations of institution change, we need to improve our understanding of informal institutions themselves.

New Institutionalism has influenced much of this more recent literature. For these scholars, rules, norms and practices are centrally important. They distinguish between different forms, particularly between formally codified rules and more informally understood conventions and norms (Peters 1999). Understanding the distinction between formal and informal institutions has become an increasingly important focus. Helmke and Levitsky

(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 governed and enforced by sanctions, both positive or negative, but these vary considerably (Azari and Smith 2012, 40). The enforcement of informal institutions often takes the form of shunning, social ostracism and even violence rather than legal recognition or the power of the state and the other mechanisms used to enforce formal institutions (Grzymala-Busse 2010, 313). Azari and Smith (2012, 41) suggest that if informal institutions are unwritten rules, we must assess their content and scope, the nature of deviance and by whom it is rewarded or punished, but recognise the difficulty of researching them as the informal is harder to uncover than the formal. It often requires ethnographic methods like participant observation more frequently associated with anthropology than political science and sometimes frowned upon by political scientists as not sufficiently rigorous and unscientific (Radnitz 2011).

Scholars have begun to explore the interaction between the formal and the informal more systematically. Several typologies distinguishing the different roles played by informal institutions in relation to formal ones are emerging. All recognise that informal institutions can have positive and 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 the formal institutions that they are interacting with. Levitsky and Slater (2011) argue that informal institutions can trump, compete with, be congruent with formal institutions or something in between. Although this literature on informal institutions is still underdeveloped and the ideas under-conceptualized, these typologies share common ground, reinforcing the need for us to explore the different ways in which the formal and informal interact together.

Rather than seeing informal institutions as pre-existing or even as a 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 interaction of formal and informal institutions in institutional change. Interest is focusing on the factors affecting the relationship between them in institutional change – looking at the reasons for change, varying interactions and outcomes in different contexts.

Grzymala-Busse (2010) focuses on the interaction of existing informal institutions with new formal institutions in transitions in East Central Europe, arguing that this influences the types of formal institutions that can emerge and the kinds of informal institutions that are perpetuated. Getting away from notions of informal institutions as primordial, Kellee Tsai (2006) argues that new informal institutions can develop as a response to formal institutions and play a key part in endogenous institutional change. She sees the emergence of certain 'adaptive' informal institutions in China as a creative response, reconciling 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 because of violations of or dissatisfaction with informal institutions as actors 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 completing informal institutions to fill gaps and resolve ambiguities in those formal rules are absent. The direction of causality therefore runs both ways. Both formal and informal institutions impact on each other.

Levitsky and Slater (2011) argue that several factors determine whether formal rule change will take root or be distorted or subverted by informal institutions. They (2011) claim that it is important to analyse why formal rule change occurs – is it internally or externally driven or as the result of a crisis? Both state capacity and the actors involved are significant. It is necessary to ascertain which actors make changes and 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 than the existing old guard. The durability of the institutional designers can also matter as does 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 the multiple factors discussed above have to be investigated – simple conclusions are not possible.

Gendering Institutions

A second area yet to receive sufficient attention from most institutionalist scholars is the gendered character of institutions. Despite the recognition of gender in many social science sub-fields, mainstream institutionalist work has largely neglected the gendered dimensions of institutional dynamics (Mackay et al 2010). It largely ignores the large body of gender theory that highlights the complex debates within feminist scholarship concerning sex, gender and sexuality as analytic categories as well as lived experience, and their intersection with other categories such as class and race (Hawkesworth 2013, Collins and Chepp 2013). Indeed there is little mention in the institutionalist literature of gender as an analytic category or women as institutional actors, and in the few cases where gender is mentioned, it is often treated as a static background variable (for partial exceptions, see Pierson 1996, Skocpol 1992) (Mackay and Meier, 2003). However this does not mean that this work cannot be used to undertake gendered analyses. Some institutionalist scholarship, particularly the Historical Institutional variant, which is relatively methodologically pluralist, problem driven and historically focused with an emphasis on the importance of context, power and distributional struggles, can provide some useful tools and concepts (Waylen 2012).

Running parallel but largely separate to the mainstream, is a now huge body of gender and politics scholarship informed by gender theory that is relevant to the gendered study of institutions (Waylen, Celis, Kantola and Weldon 2013). But, it too, has limitations - often focusing on gender-specific policies and institutions such as gender mainstreaming and WPAs. It has sometimes over-emphasised women's agency, not investigated the structural constraints that can have negative effects on outcomes sufficiently, and found understanding the internal dynamics of institutions and institutional change difficult (Waylen 2012). But some path-breaking work analysing 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 explicitly engaged with institutionalist frameworks (Chappell 2011, Kenny 2011). As a result some feminist work now draws on and explores whether different variants of institutionalist analysis could incorporate gender (Mackay and Waylen 2009, Mackay, Chappell and Kenny 2010, Krook and Mackay 2011). But this scholarship, too, is only now beginning to fully integrate the analysis of the formal and informal and their inter-relationship into its frameworks (Chappell and Waylen 2013).

Feminist scholars have demonstrated how gender is deeply implicated in institutions, arguing that they are gendered in two ways, both nominally and substantively (Acker, 1992, Lovenduski 2005, Chappell and Waylen 2013). This takes place nominally through gender capture – it is men who have traditionally and continue to inhabit positions of power in greater numbers than women (Witz and Savage 1992). But increasing numbers of women do not necessarily make a significant difference as institutions are substantively gendered through numerous mechanisms that result in gender bias (Weldon 2002, Htun and Piscopo 2010). This bias emerges from social norms 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 that operate differently in different institutional settings, with some forms of masculinity operating hegemonically (Connell 2002). Different forms of masculinity are in evidence in the military and in the upper echelons of the British civil service and core executive (epitomised in the 'Westminster model'). Chappell and Waylen (2013, 602) claim '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. As they (2013, 602) argue

‘Acknowledging the existence of a gender regime is important because it provides new insights into the power dimension of political institutions. It draws our attention to the asymmetry of institutional power relations (Kenny 2007:96) and makes us look at *how* and *what* resources are distributed and *who* gets to do the distributing’.

But because masculine domination is not totally hegemonic, there are attempts to disrupt and change it and not all men and women will behave in the ways expected of them.

In sum, despite the huge strides that have been made in understanding institutions, gaps remain. We need to improve the analysis of the informal and to incorporate gender as a key dimension frequently missing from current institutional analyses thereby detracting from their explanatory power. As part of combining the two tasks to analyse how the informal as well as the formal is gendered, scholars need to delve beneath the often gender-neutral appearance of institutions to uncover the myriad ways in which gender plays out. But this is not an easy task. Analysing both informal institutions and how they are gendered presents theoretical and methodological difficulties as both gender norms and informal institutions can be difficult to uncover. Gender norms and informal institutions often remain unperceived or unremarked as they are naturalised as part of the status quo. Reforming formal rules may end officially sanctioned gender bias, but will not necessarily overcome all institutionalised forms of male bias as informal rules may undermine formal rule change. To date few analyses of this kind have been undertaken particularly in the context of institutional change (Waylen 2012). But to contribute to advances in the gendered analysis of formal and informal institutional change, this paper will first examine how current institutionalist, and particularly historical institutionalist, scholarship can help us analyse (endogenous) institutional change, before uncovering formal and informal rules, norms and practices within these processes.

Institutional change

Different variants of institutionalism have different understandings of institutional change. As has been widely noted, until recently all focused more on exogenous (externally driven) rather than endogenous (internally driven) change (Clemens and Cook 1999; Campbell 2010; Schmidt 2010). Indeed two variants - Sociological Institutionalism (SI) and Rational Choice Institutionalism (RCI) - find endogenous change difficult to contemplate either because it sees institutions as cohesive (the former) or as mechanisms tending towards equilibria (the latter). Therefore both have problems in accommodating conflict and agency. As such, although SI has long emphasised the importance of informal rules, norms and practices and their interaction with the formal - understanding institutions as formal and informal collections of interrelated norms, rules and routines, understandings and frames of meaning that define 'appropriate' actions and roles - its capacity to understand change limits its usefulness for our purposes (Meyer and Rowan, 1977, March and Olsen 1989, Powell and Di Maggio 1991, Waylen 2012).

In contrast historical institutionalism views institutions, not as cultural scripts or coordinating mechanisms, but as legacies of historical struggles, and is therefore more useful for our efforts to understand change (Mahoney and Thelen 2010, Waylen 2012). However, until recently it was better at understanding continuity and stability, and exogenous rather endogenous, change, using concepts like path dependence and critical junctures (criticised for being overly rigid and deterministic), to explain the role of interests and their interaction with structures in shaping actors' strategies and preferences and in the emergence and development of institutions. But importantly Historical Institutionalism emphasises that institutions and their rules, norms and practices shape power relations with distributional consequences,

disproportionately distributing resources to actors with power – it is these power-distributional implications of institutions that motivate change.

The more recent work of HI scholars has examined gradual endogenous institutional change (Streeck and Thelen 2005, Mahoney and Thelen 2010). It argues that if institutions are sets of rules that are enforced or complied with, then to understand endogenous change, we must examine gaps in enforcement and compliance, requiring us to unravel the inner life of institutions. We need to understand how and why actors do or do not obey rules. If institutions are seen as either cohesive or equilibrating, compliance is not really an issue. But if power, contestation and distributional issues are at the centre of institutional analysis, compliance becomes an important variable (Mahoney and Thelen 2010). Challenges and changes to rules, norms and practices become a central focus of any analysis of change. But challenges and changes can take a variety of forms, including the contestedness of the institutional rules themselves as well as the degree of openness in their interpretation and the implementation. A great deal of 'play' in the interpreted meaning of particular rules often exists. Rules are therefore ambiguous and subject of political skirmishing (Sheingate 2010). When circumstances change and new developments confound rules, institutional change can occur through rule creation or the extension of existing rules. Gaps therefore develop for a range of reasons: there are often differences between institutional design and its implementation on the ground (Thelen 2009). Rule makers and designers for example have cognitive limits – they never fully control the uses to which their designs are put. Institutions are often the result of political compromise so ambiguity is built in. Institutions, because they instantiate power, are not neutral. And over time a changing context can open up space for the reinterpretation of rules. Incremental internally driven institutional change can occur in 'gaps' and 'soft' spots between a rule, its interpretation and enforcement. Gradual change

often exploits the 'play' in existing rules while rapid change involves their wholesale replacement. The form that change takes depends in part on the political context (and on the veto possibilities offered to defenders of status quo) and on the amount of discretion in existing rules. Understanding change in this way can accommodate contestation, power and agency.

Recent contributions that focus on rules, their enforcement, interpretation and subversion allow us to identify different kinds of change, with different actors playing different roles in varying structural contexts, (Streeck and Thelen 2005, Thelen 2009, Mahoney and Thelen 2010). Building on earlier institutionalist work, Mahoney and Thelen (2010) identify four types of institutional change. The first is displacement. New institutions are created, either to replace old rules (which tends to be rapid and is often externally driven) or in direct competition with existing institutions (more likely to result in gradual change). So although not inherently a gradual form of change, displacement can be slow moving. Normally new institutions are created by actors (usurpers) who were losers under an old system that had little discretion within its rules, and defenders of the status quo had a weak veto. Layering is the second type of change in which new rules are introduced alongside or on top of existing ones, but they are not in competition with them. Actors have some power to create new institutions but not enough to displace old institutions. Defenders of the status quo often have high veto possibilities and there is little discretion in the enforcement of existing rules so institutional challengers cannot alter the existing rules. Change is therefore often gradual and endogenous. The third form is drift – the impact of existing rules changes because of shifts in the environment so institutions have new meaning. Finally conversion is the fourth form of change. Actors do not have sufficient power to change institutions or else they are sympathetic to them. They work within the system and utilize any slack/ambiguity

within existing rules to get institutions to behave differently. Again change is often gradual and endogenous as existing rules are strategically redeployed as actors actively exploit the inherent ambiguities of institutions. But because of ambiguity in the rules and the weakness of change actors there are often problems with enforcement. Mahoney and Thelen's typology highlights a number of factors – such as differences in the roles and power of actors, as well as continuity in different forms of change – that can help us discern if different outcomes are more likely in certain contexts (Waylen 2012).

Currently there is little explicit analysis within historical institutionalist frameworks of the interaction between formal and informal rules in processes of change. Indeed the informal is rarely mentioned and rules are discussed without distinguishing whether they are formal or informal. Some scholars have even dismissed the need to include the informal in the study of modern economies and polities (Streeck and Thelen 2005, 10). But work on informal institutions and HI analyses of institutional change share common ground, such as the distinction between rule makers and enforcers, institutional design and its implementation. HI change frameworks could be extended to incorporate the distinction between the formal and informal rules, because they already emphasise internal dynamics such as slippage, ambiguity, gaps and ‘soft’ spots, when considering gradual internally driven change. More sophisticated analyses of contestation - showing how actors use and create both formal and informal rules and how this varies in different types of institutional change – would result.

Analysing Informal Institutions, Institutional Change and Gender Equality

We can now explore how formal and informal institutions and their interaction operate in processes of institutional change using a gender frame. Before we can look specifically at the different forms of change (as delineated in the previous section) that can be used by actors to attempt gender equitable institutional change, we need to extend our previous discussion of how institutions are gendered to incorporate institutional change in general (Waylen 2012). This requires us to do several things. First, we must analyse the gendering of both the formal and informal rules that constitute institutions. Lowndes and Roberts (2013) have identified three ways in which rules are gendered. There are: identifiable rules about gender; rules that have gendered effects; and the actors who work with rules are also gendered. Formal rules about gender are relatively easy to identify. Ones that treat men and women differently in official and legal terms, such as prohibitions on voting or the roles that women can play in the military, are usually widely publicised if not universally supported. Many institutional rules (but not all everywhere) are now formally gender neutral, e.g. for employment, political participation and education, but a huge array of informal rules about gender, such as dress codes and the sexual division of labour, remain. Gendered informal rules interact and co-exist with formal rules but often pass unnoticed as they run in parallel to, complement or complete formal rules. So, for example, although formal rules enforcing gender norms do not usually forbid men from wearing skirts to work or school in most of Europe/North America, infringements of informal rules about dress are enforced using informal mechanisms of ridicule and social opprobrium. As a result these informal rules are not always perceived, as explicit sanctions are rarely invoked. These various inter-relationships have not yet been systematically investigated and specified.

Second, when we focus on the interaction between the formal and informal, and the different roles the informal plays in either upholding or subverting the formal in different contexts, we need a hybrid model of the relationship between formal and informal developed using the analysis outlined above. Feminist scholars, for example, often assume that informal institutions play a primarily reinforcing role - maintaining the gender status quo – and a subverting role when positive gender change is attempted. For example, despite formal rules forbidding sexual abuse, the extent to which informal norms and practices facilitated many men and particularly ‘celebrities’ like Jimmy Savile blatantly abusing victims – primarily women and girls - without fear of sanction in the 1960s, 70s and 80s when victims were ignored or disbelieved, is now being revealed in the UK (Huffington Post, March 3 2013). But assumptions about informal institutions as subverting change derive from a rather static notion of informal institutions as preserving the status quo. More dynamic models are needed that accommodate scenarios, ranging from the emergence of new informal institutions to contexts where informal institutions undermine existing gender-unequal formal institutions, amongst others. At the moment analyses that distinguish between reinforcing and subverting informal institutions are at a very early stage.

Gender scholars therefore need to use more nuanced frameworks that delineate different reinforcing roles: such as co-ordinating or completing informal institutions; substituting informal institutions; as well as parallel formal institutions. We can envisage scenarios where gendered informal institutions reinforce formal institutions by filling in gaps, and play a completing role when formal rules are vaguely specified. The two are therefore in sync when informal institutions reinforce rather than undermine formal ones. This fits the pattern described above where informal rules about masculinity and femininity reinforce supplementary and caring roles for women and decision-making roles for men within

institutions, and have served to uphold the male domination of those institutions. But 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.

Furthermore, in addition to analysing informal institutions that subvert or compete with new formal institutions when attempts are made to implement positive gender change, we must also explore other scenarios where new informal institutions are created. As we have seen causality can run both ways, so it follows that change in informal rules about gender can lead to change in formal rules. Formal rules, around marriage, illegitimacy, contraception, and abortion, have sometimes altered in gender positive ways - granting rights to illegitimate children, legalizing civil partnerships and gay marriage - because the informal rules (like the widespread acceptability of unmarried heterosexual couples having children) have become increasingly at odds with formal ones. The Catholic Church stands out as an exception here. Although its formal rules about contraception have remained unchanged, informal rules subvert the formal ones as in many countries priests informally sanction contraceptive use. But the two sets of rules remain out of sync as efforts to change formal rules have failed (or it may be that informal rules have sometimes replaced the formal ones). And in the UK, 'historic' sexual abuse cases have now been prosecuted as changed informal rules about acceptable behaviour mean that past violations of formal rules are now treated differently (Huffington Post, March 3, 2013). The informal rules no longer subvert the formal ones but now complete them.

Although positive formal gender change is often brought about by gender equality entrepreneurs, we also need to investigate cases where positive formal rule change occurs for other, often instrumental, reasons. War-time is often a classic case when formal rules change, for example around women's employment to boost production during the First and Second

World Wars. There are also examples of attempts to change informal gender rules – but again not to increase gender equality – in contexts where a formal rule change would be difficult to implement. During the Second World War, governments also tried to alter informal norms around feminine dress codes so that women wore practical clothes and short hair when working in factories (Summerfield 1987).

Having explored various ways in which formal and informal rules interact in gendered ways as part of institutional change more generally, we can now investigate institutional change that explicitly aims to improve gender equality, examining how formal and informal institutions affect the outcomes of different strategies to effect institutional change. We will begin by briefly considering the potential of displacement and drift, before examining layering and conversion as two more likely change strategies. This will help us to answer several questions: are some types of change more likely to be effective than others; are some are more prone to subversion; and what strategies can institutional designers adopt to prevent subversion?

Displacement – the wholesale replacement of old rules with new ones - is unlikely to be a common gender change strategy, because it relies on the absence of a strong veto. Gender equity actors rarely have sufficient power or the opportunity to achieve wholesale displacement in the absence of strong opponents. However, although institutional displacement is unlikely to be a widespread gender equality strategy, there are cases where new institutions have had important gender dimensions, partly because of gender actors' efforts to incorporate gender equity concerns. The creation of a number of new institutions - such as some post conflict constitutions such as in post apartheid South Africa; the International Criminal Court and the Scottish parliament, designed as part of a new political system that devolved power from London to Scotland - are cited as examples (Waylen 2007,

Chappell 2011, Mackay 2009). But these contexts are often unusual ones where many pre-existing rules are swept away, veto powers are often small, giving all actors **potential** opportunities to shape rule-making, and new actors are often key rule-makers. But, as the Scottish case demonstrates, it also requires the existence of/and active intervention by significant gender entrepreneurs (as well as women's movements) and the hopes of many actors, including gender entrepreneurs, were often disappointed as new formal institutions were not created with a blank slate (Kenny 2013).

To understand these outcomes, we need to ascertain how far new formal rules take root or get distorted or stymied. As we have seen in the cases of the ICC and the Scottish parliament, some observers argue that even new institutions are subject to 'nested newness' (Mackay 2009, Chappell 2011, Chappell this volume). Old formal and informal institutions and their legacies still act to shape the new institutions, often providing the default position for institutional designers looking for models for the new institutions. Rule-makers are often not the rule-enforcers who may remain from the previous era and many actors may still be able to break or subvert rules. Meryl Kenny's (2011, 2013) study of the Scottish Labour party selection procedures for the new parliament, demonstrates how actors can slip back into old ways, namely favouring potential male candidates over female ones. It is also likely that new formal institutions will lack completing or complementary informal institutions which can be particularly important if there is any ambiguity within the formal rules. 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 (such as occurred between traditional leaders and gender advocates over the role of customary law in the new South African constitution) but this makes subsequent contestation more likely (Albertyn 1994, Gouws 2012). Indeed the South African traditional leaders who subsequently

campaigned and made pacts with the new ANC government to re-assert customary law in the face of equality measures in the new constitution, may even have increased veto power (Gouws 2012). New adaptive, completing or co-ordinating institutions are then needed. Overall, even in displacement, mechanisms can remain that distort the operation of new formal rules.

Drift is the other form of change unlikely to be an effective gender justice strategy adopted as a strategy of choice by change actors, as it is slow moving - relying on changes to the external environment rather than formal rule change - to give institutions new meaning. But drift, such as the changes to the US welfare system, is gendered. It has been recognised that formal rules around welfare were maintained at the same time as US society changed in highly gendered ways eroding the male breadwinner model (Hacker 2005). However it is also possible to conceive of drift as a kind of gender equality strategy in some contexts where gender equality actors are unable to create new institutions or even alter existing rules. For example drift might be used where changes in wider societal norms and practices, combined with gaps in existing rules, facilitate the non-enforcement (turning a 'blind eye') of some rules (such as bans on particular activities for women for example around employment and contraceptive use) rather than their replacement.

Layering and conversion are more likely gender equality strategies because they are gradual, endogenous and potentially more achievable when actors have sufficient power to create some new rules or use existing rules in creative ways, but not enough to displace these existing rules. Indeed layering has probably been the most widely used institutional gender equity strategy to date. The creation of Women's Policy Agencies (WPAs), the implementation of gender mainstreaming, and the introduction of electoral quotas are the commonest forms (Walby 2005, Krook 2009, McBride and Mazur 2013). Advocates claim

that these are transformative strategies that can result in significant institutional change. But their effectiveness varies considerably in different contexts, and detractors argue that they are ‘integrationist’ as none can fundamentally re-gender masculinist institutions (Waylen 2008). It is therefore important to examine these outcomes from an institutionalist perspective.

Building on the previous discussion, we can ask: why were new formal rules 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 (for example governments in East Central Europe setting up WPAs to comply with the *acquis communautaire* for EU entry (Avdeyeva 2010))? How much power do institutional designers and their opponents have? Is the institution (and its designers) seen as durable - likely for example to survive a change of government? WPAs have been established in contexts where their creators have varying amounts of power. Their design and location often reflects this. Does the WPA have significant resources? Is it located in the centre of the core executive with oversight functions or in a weak outlying department; and how much capacity to create and implement policy (or get others to) does it have? The original brief, location and resources of SERNAM - the WPA established by the centre-left Concertacion government in the aftermath of the Chilean transition - was reduced as a result of powerful Right-wing opposition (Franceschet 2005). Are the rule-enforcers same as rule-makers? A problem identified with gender mainstreaming has been bureaucratic resistance from those charged to implement mainstreaming, particularly lower down in organizations (Waylen 2008). Often few formal institutional rules requiring, for example, monitoring and evaluation, exist, leading to little institutional knowledge of whether implementation occurs, and a lack of effective sanctions, if not. Hafner-Burton and Pollack (2009) report that gender

mainstreaming efforts within the EU have been more effective when hard incentives (backed by formal rules) rather than soft ones (like working parties and training) are introduced.

Electoral quotas - a new institution introduced on top of the existing legislative rules - provide the second example of institutional layering. Most scholars agree that a significant increase in women's representation needs new rules to 'fast track' it, as existing electoral rules contain little leeway to do this (Dahlerup 2006). Quotas can be effective, but again it depends how rules are drawn up (e.g. whether there are placement mandates) and whether they are enforced (e.g. whether party lists failing to meet the criteria are disqualified) (Krook 2009). Quotas can also be rendered ineffective if there is sufficient play within the rules to allow subversion in their enactment (such as Brazilian parties leaving gaps on their lists rather than nominating women candidates). In these contexts, dominant norms and informal rules can allow actors to subvert the new formal rules. But rules and norms can subsequently be adapted and changed. In Argentina quota laws, until the formal rules were strengthened and properly enforced with sanctions (namely the rejection of non compliant electoral lists), were ineffective. In France the relative acceptance of a system of fines enables larger, more affluent, parties to pay to ignore quotas, while smaller parties comply, leading us to ask whether this is a short-term tactic or the development of a new informal rule that will continue to undermine new formal ones.

Therefore although formal rules changed, WPAs, gender mainstreaming and quotas have sometimes been subverted by the continuation of pre-existing norms and rules, badly designed and ineffective new formal rules, as well as a lack of implementation and enforcement often facilitated by the existence of gaps and soft spots. The contrast between the institutional design and on-the-ground implementation can be marked. We also need to discern whether completing or complementary informal institutions have emerged where

institutional change has been successful, and whether new subversive informal institutions have developed or old ones remained where change has been distorted or stymied.

Conversion is the final potential gender equity change strategy that deserves investigation. Actors keen to achieve change often do not have sufficient power to create new formal institutions so use ambiguity within existing rules. This makes it a relatively likely but also a risky gender justice strategy. One potential example in the executive arena is the Presidency of Michele Bachelet. Bachelet, Chile's first female president, took office in 2006 with an explicit gender agenda, promising to appoint new faces (including women) and implement some positive gender change. Although Chile has a powerful presidency, preliminary research (Thomas 2011) indicates that Bachelet could not create new institutions, but attempted to interpret and enact existing rules in new ways to achieve change through conversion. She used a range of mechanisms, strengthening the women's policy agency SERNAM, increasing its resources and giving greater significance to the Council of Ministers for Equality of Opportunity created by the previous president, attempting to alter its informal norms by attending meetings and expecting ministers to do the same. Thomas (2011) reports that ministers and officials started to behave differently, knowing that gender issues were more important for Bachelet than previous governments. Ministers who previously had been late or absent from 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 decrees and urgencies, to change legislation. But her opponents had considerable veto power to block change through institutional mechanisms such as constitutional tribunals. Both presidential

action and opposition blocking tactics were visible in policy areas such as welfare (including pensions, health and day care) and 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 2006). This informal emphasis on consensus gave the Right-wing opposition considerable power to block change in contentious areas like 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 using both formal and informal institutions.

Having outlined some preliminary ways that the analysis of formal and informal institutions can help us understand different gender equality strategies and their outcomes and help us explain why gender equitable institutional change is often difficult to achieve, we can now reflect on the wider implications of this analysis for understanding the relationship between formal and informal institutions and institutional change more generally.

Conclusions

The foregoing discussion has put forward several arguments. First, examining different forms of institutional change - displacement, layering, drift and conversion - shows how informal rules and norms can play an important part in the extent to which new formal rules take root, often with complex and contradictory outcomes not intended by institutional designers, and this varies in different contexts. Second institutional analyses are improved if gender dynamics are incorporated by showing another set of power dynamics at work. Power relationships always play an important part in institutional change – actors adjust collective expectations to the altered framework of rules so that they either reinforce formal rule changes or stymie or distort the intended impact of formal reform, depending on the power relationships in play. Demonstrating how power relations are gendered therefore highlights the central importance of power in institutional change in new ways. However, although historical institutionalism emphasises distributional questions that are mediated by power dynamics, this has generally only been done in terms of class to date. Given that gender actors frequently have limited power and gender change is likely to face opposition (with considerable veto power), being able to minimise the extent that informal institutions subvert, distort or stymie formal rule change is a crucially important part of gender change strategies too.

Third, the discussion highlighted that much work remains to be done in this, as yet under-developed area, to improve the conceptualization and analysis of informal institutions and the varied roles these can play in subverting or supporting different forms of institutional change. It began to illuminate the ways in which these can stymie, distort formal change but also that new informal institutions can develop in response to formal change, maybe completing or coordinating as well as potentially subverting formal change (as we saw with

electoral quotas). Informal institutions can therefore play a significant role where there is slack and ambiguity in formal rules. But informal institutions can also be dynamic and mutable. Existing ones can adapt and new ones emerge.

The lessons for all institutional designers, not just gender equality ones, are therefore to be aware of informal institutions and how they can act in completing, complementing or coordinating as well as distorting ways. These insights have varying implications for different kinds of institutional change. For example those change agents using a strategy of conversion can try to utilise or adapt informal institutions in positive ways in a context where their capacity to change formal institutions is limited. A key consideration for institutional designers able to secure formal rule change is to ensure that pre-existing informal institutions do not have a negative impact; and ideally that new adaptive, completing or complementary informal rules are established; or as part of layering or conversion, new co-ordinating informal institutions created. Actors involved in layering or displacement need to minimise any gaps and ambiguity in formal rules so that pre-existing informal institutions (or new or adaptive ones) do not undermine formal rule change. All actors designing new institutions therefore need to consider Informal institutions and, although great strides have been made, further research and analysis are needed.

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