

# Nested Newness, Institutional Innovation, and the Gendered Limits of Change

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Opportunities for innovation are created by broad restructuring processes and by the chance to be in at the start of new or substantially revised political institutions. These intuitions have animated the efforts of women’s movement activists and their allies in processes of political transition and constitutional or institutional “engineering” (and reengineering) with the aim of embedding gender rights and freedoms (Banaszak, Beckwith, and Rucht 2003; Dobrowolsky and Hart 2003). Institutional theory supports these intuitions. Reformers — including feminist change agents — may take advantage of the “permissive” stage of institutional creation. By successfully intervening to insert new actors, new values, and new rules into new institutions, reformers *may* profoundly influence the future developments of an institution (Goodin 1996; Pierson 2004). By “locking in” elements that promote gender equality and gender justice at the stage of institutional design, the goal is to set off fledgling institutions along progressive paths, thus counteracting historic gender bias and gendered power imbalances found in most traditional political institutions.

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Recent cases include efforts to promote gender equality and women's participation in the drafting of postconflict settlements and the design of new constitutions (Tripp et al. 2009; Waylen 2006; 2007). Examples also arise from constitutional change processes in industrialized democracies such as Canada (the drafting of the Canadian Charter of Rights and Freedom; see Dobrowolsky 2003) and the United Kingdom (the reforms of devolution; see Brown et al. 2002; Dobrowolsky 2002). At the global level, feminist designers have contributed to the creation of new international institutions with new gender mandates such as the International Criminal Court (Chappell 2011; 2014).

Attention has been paid to the conditions conducive to the promotion of gender equality goals and the adoption of new formal rules (see, for example, Goetz 2003) and to the strategies employed by the women's movement and other actors to promote new gender rules and structures. However, the formal creation of a new institution is only the first step. Postdesign, what follows is a longer process of transition — marked by instability and uncertainty — whereby an institutional blueprint is put into practice and institutionalized. The central findings of empirical research highlight variable outcomes across cases and the coexistence of elements of continuity and change and caution that change in one institutional arena may be supported or confounded by the effects of other institutional arenas, illuminating the difficulties encountered in embedding gender reforms (see, for example, Chappell 2011; 2014; Goetz 2003; Kenny 2013; Majic 2014; Waylen 2007).

In this article I argue that we need to pay more attention to examining and theorizing newness and processes of institutionalization. While all institutional innovation is difficult, this work explores why gender reforms should appear so vulnerable to regress, even in new institutional contexts. I take a feminist institutionalist approach, bringing a gender lens to institutionalist theory about the design and development of new institutions.<sup>1</sup> The paper first sets out the concept of nested newness,<sup>2</sup> which highlights the promise and limit of new institutions by placing them within their gendered institutional context. It then sketches out two mechanisms through which institutional innovation is actively resisted or passively neglected: “remembering the old” and “forgetting

1. This collaborative theory-building project aims to synthesize institutionalist theory with gender analysis. See Kenny 2007; Krook and Mackay 2011; Lovenduski 2011; Mackay, Kenny, and Chappell 2010. See also [www.femfin.com](http://www.femfin.com).

2. For earlier outlines of nested newness as a holding concept, see Mackay 2006, 2009b.

the new.” Borrowing from sociological institutionalism and innovation studies, the paper outlines the concept of the “liability of newness,” which might be adapted and gendered to explain why these processes occur. It argues that the stickiness of old rules (formal and informal) about gender, the “nestedness” of new institutions within the wider environment, and the way newness functions as a gendered liability provides a powerful explanation for why it is so hard to make gender reforms — and wider institutional change conducive to the regendering of politics — stick.

It then explores these concepts through the illustrative case of devolution in the UK, drawing upon secondary literature including earlier work by the author and colleagues that documented the run-up to devolution and the early years of the new institutions in Scotland.<sup>3</sup> In particular, it examines the new Scottish Parliament and the ideas and practices associated with “new politics.” The Scottish case is held up internationally as a case of successful “constitutional engineering” where conducive conditions and strategic mobilization resulted in tangible outcomes in terms of gender equality, particularly in the achievement of high levels of women’s representation (Waylen 2006).

In so doing, the paper highlights the importance of attending to the ways in which new *gendered* institutions are enacted and instantiated in the postdesign phase by *gendered* actors using formal and informal rules and norms and to how the new and the old play out and with what effect for gender reform agendas. By exploring the limits of institutional innovation in a best-case scenario, the paper contributes to our understanding of the generic and gendered challenges to effecting change.

3. In addition to the secondary literature, the paper is informed by findings from two small-scale projects (2000–2002) undertaken by the author and colleagues that examined the run-up to, and early years of, devolution from a gender perspective. They were part of the UK Economic and Social Research Council Devolution and Constitutional Change Programme. The first study (with Alice Brown and Fiona Myers, both University of Edinburgh) examined dynamics in the first Scottish Parliament (L219252023). The second study (with Alice Brown, University of Edinburgh; Elizabeth Meehan and Tahyna B. Donaghy, Queen’s University Belfast; and Paul Chaney, Cardiff University) charted comparative developments on gender and constitutional change in Scotland, Northern Ireland, and Wales (R00223281). In Scotland, a total of 100 interviews were conducted with male and female MSPs from four political parties, government ministers, civil servants, parliamentary “insiders,” women activists — from voluntary organizations, political parties, and trades unions — equality experts, and other commentators. Analysis was undertaken of party and organization documents, government papers and reports, and the Official Record of the Scottish Parliament. The author has kept a watching brief in the intervening period, particularly on trends in women’s representation (with Meryl Kenny) and policies to tackle gender based violence.

## NESTED NEWNESS: THE PROMISE AND LIMIT OF GENDERED INSTITUTIONAL CHANGE

In this section, I set out the feminist institutionalist concept of nested newness and related ideas. Nested newness draws upon institutionalist theory and gender scholarship and illuminates the considerable complexities of creating new institutions — for all institutional designers, but perhaps particularly so for feminist reformers for whom their “new” seeks to disrupt old certainties and to challenge rather than conform to the wider status quo. Subsequently, I discuss purposive strategies and cognitive mechanisms by which actors enact new institutions, including remembering the old and forgetting the new in ongoing processes of contestation and interpretation. In the final part of this section, I highlight the liability of newness and the quest for legitimacy.

Once created, institutions (comprising structures and formal and informal rules) can be difficult to change further and are an important structuring context within which political action occurs. Indeed, as Mahoney and Thelen observe, “persistence of some kind is virtually built into the very definition of an institution” (2010, 4). However, the institutional design literature points to the “permissive” stage of institutional design as the moment in which old settlements are destabilized and the new can be embedded (Goodin 1996). Nevertheless, the process is far from straightforward. New blueprints may or may not translate into changes in operating rules and informal conventions, everyday practices, institutional capacities, and outcomes. New institutions must contend with organizational and institutional legacies and path dependencies, with unintended consequences of design decisions, and with ongoing institutional dynamics with the wider environment.

Nested newness is a metaphor used to capture the ways in which the new is embedded in time, sequence, and its institutional environment. This influences the design of new institutions and impacts subsequent institutional development and capacity. No institution — however new or radically reformed — is a blank slate: the capacity for new paths is profoundly shaped by its institutional environment no matter how seemingly dramatic the rupture with the past. New institutions are inevitably informed by “legacies of the past.” These include material legacies and existing patterns of power distribution (Lowndes and Wilson 2001, 643) but also cognitive and normative legacies — “frames of mind” and “habits of the heart” (Goodin 1996). Institutions always have

multiple designers, often with contradictory ideas and differing goals. Institutions are also shaped by the environment in which they nested and by their ongoing dynamics with other institutions, which interlock and overlap, complement or contradict, trump or are trumped by them (see, for example, Aggarwal 2006; Ostrom 2005). In most cases, institutional creation is better understood as bounded innovation within an existing system.

This is not a new insight, but it is often overlooked. Understanding institutional innovation — newness — as *nested* provides a means of meeting the twin challenges set out by Streeck and Thelen (2005) to give more attention to the way the old continues to constrain and shape actors' agency at so-called critical junctures or points of apparent new creation and to focus on the ongoing exercise of agency and political contestation in times of apparent institutional stability, uncovering the ways in which institutions operate not only as constraints, but also as strategic resources for actors (Thelen 2004, 213. See also Campbell 2010).

Crucially, nested newness must also be understood as a *gendered* concept. Drawing on a long history of feminist scholarship, institutions are not gender neutral but are actively constructing and reproducing gender relations and ideologies (see, for example, Acker 1992; Duerst-Lahti 2002; Duerst-Lahti and Kelly 1995, Stivers 2002). Gender is seen as a crucial dimension in the study of institutions and processes of political change: first, gender relations and gender norms — and their institutionalized forms as “gender regimes” (Connell 2002) — are part of the wider legacies and ongoing dynamics within which reform efforts are nested and with which they must contend; second, gender relations and rules and norms of masculinity and femininity provide important mechanisms — although often submerged and barely visible — by which wider particular arrangements and power asymmetries are naturalized and institutionalized or resisted and discarded; and third, there are complex linkages between different sorts of institutions over time and space that shape gendered patterns of advantage and disadvantage (Burns 2005, 139). These legacies and interactions may enable or frustrate the creation of a new institution and reform agenda. That is a matter for empirical investigation, but they will play a powerful role in its development and exert influence on the actors seeking to instantiate it.

As institutionalist scholars Streeck and Thelen (2005, 30) observe, all institutions require “active maintenance,” and new institutions, in particular

... require elaboration of their meaning in practice ... The “path” along which an institution is “worked out” in this sense is shaped by exogenous circumstances as well as a myriad of strategic choices, deciding together which of the many possible meanings of a young institution are practically explored and which are foreclosed or left by the wayside.

Nested newness, then, is a way of alerting us to the complexities of creating new institutions — for all institutional designers, but perhaps particularly so for feminist designers for whom their “new” seeks to challenge rather than conform to the wider status quo. Understanding nested newness as *gendered* may help analysts better to explain “*which specific elements* of a given institutional arrangement are (or are not) renegotiable, and why some aspects are more amenable to change than others” (Thelen 2004, 36, emphasis in original). This highlights the importance of attending to the ways in which *gendered* institutions are enacted and instantiated in the postdesign phase by *gendered* actors using formal and informal rules and norms and new and old institutional elements.

## **INSTITUTIONALIZING NEW INSTITUTIONS: REMEMBERING AND FORGETTING**

The insight of new institutionalists and feminist political scientists alike points to the importance of what follows after institutional creation: there is no automatic or guaranteed translation from principles to practice. For example, “constitutional moments” are followed by a longer period of institutionalization and uncertainty as the new structures and rules outlined in overarching settlements are either embedded and consolidated or amended, neglected, and discarded in the processes by which they are converted into everyday rules and practices. The interpretation, enactment, and enforcement of rules are analytical spaces within which institutions are shaped in ongoing processes of contestation (Mahoney and Thelen 2010, 18). Such processes of contestation in turn create their own institutional legacies by building ambiguity and contradiction into the design of institutional structures and rules, which can be exploited by shifting coalitions of actors over time (Leach and Lowndes 2007; Mahoney and Thelen 2010).

The mix of formal and informal rules that constitutes “the rules-in-use” (Leach and Lowndes 2007; Ostrom 2005) in specific institutional contexts play out in different scenarios during periods of reform and transition. On the one hand, they may reinforce change when there is a good fit and tight

coupling between the old informal and the new formal. On the other hand, as Leach and Lowndes observe, informal rules and norms may exist “in parallel — or even in direct contradiction — to formal rules” (Leach and Lowndes 2007, 186). In this scenario, actors may use old informal rules to resist or modify newness. New rules, structure, and roles may be diluted or unraveled and reincorporated into old ways and old paths. In so doing, reforms designed to challenge the status quo may well end up “leav[ing] power relationships intact” (Leach and Lowndes 2007, 186).

A number of tools or mechanisms deploy the “old” or the “new,” which institutional actors can use to innovate and interpret the rules as they enact new institutions on a daily basis; they may equally be used purposively to resist innovation. According to Lowndes, these include “remembering” and reincorporating the old, as well as “borrowing” from other institutional repertoires (Leach and Lowndes 2007; Lowndes 2005). These may be strategic actions or less purposive isomorphic processes whereby actors “make sense” of the unfamiliarity and uncertainty of the new by mimicking the forms and norms of the wider environment (Campbell 2010, 95; Leach and Lowndes 2007). In addition to institutional remembering and borrowing, I suggest that lessons from feminist empirical research highlight an equally powerful mechanism, that of “forgetting” — whereby institutional actors apparently forget new formal rules and espoused norms, especially those that seek to redistribute power between men and women and unsettle norms of masculinity and femininity unless held accountable, usually by women’s movement actors (see, for example, Goetz 2003).

## **WHY IS IT SO HARD TO MAKE GENDER REFORMS STICK? THE GENDERED LIABILITY OF NEWNESS**

What might explain the propensity of institutional actors to “fall back” on the old — or more particularly, the “old” of the dominant mainstream? The institutional design literature points to the permissive stage of institutional design as the moment in which the new can be embedded. Novelty has both positive and negative faces. The novelty of the new (fresh, untried, breaking the mold) that makes it attractive to reformers may render such newness suspect, risky, inefficient, and apparently unrealistic at the postdesign phase of institutionalization. Borrowing from sociological institutionalism, I suggest that Arthur Stinchcombe’s classic concept of the “liability of newness” (Stinchcombe 1965; see also Nagy

and Lohrke 2010) might be adapted to explain why these processes occur. The liability of newness relates to the vulnerability of fledgling organizations (and, for our purposes, political institutions) as they face multiple challenges that relate to their newness and struggle for survival. I argue that, over and above purposive resistance and beyond cognitive processes to reduce unfamiliarity and uncertainty, the institutional quest for legitimacy — in order to mitigate the liability of newness and increase the chances of survival — provides an important part of the puzzle of how nested newness may blunt reformist potential.

Faced with the liability of newness, institutional actors seek to achieve legitimacy both internally by means of norms of appropriateness and externally by means of the endorsement of power holders in the wider environment. How might institutional actors go about seeking and maintaining legitimacy in order to counteract the liability of newness? One strategy would be to convince stakeholders of the merits of moving beyond the status quo by enacting new rules and norms. Indeed many reform efforts — particularly gender-equity reforms — are motivated by a desire to challenge the gendered status quo and “change the rules of the game.” However, such approaches are risky, especially when they are at odds with the wider environment. In seeking, particularly, external credibility and legitimacy, actors in new institutions are likely to fall back on authoritative modes, firmly anchored in and validated by the wider environment. Tacit knowledge about what is valued, credible, authoritative, and strategic remains coded masculine and is widely shared among horizontal and vertical networks of power holders (Duerst-Lahti 2002; 2008). Actors therefore draw upon gendered conceptions of both liability and legitimacy, with gendered consequences. By falling back on the old, they often reinscribe particular gender norms and relations as the authoritative ways in which politics — be it parliamentary, judicial, or bureaucratic, local or global — is understood and done. Depending where in the sequence we are, this may also involve diluting previous gender reforms and progressive values and extant relationships (see, for example, Sawyer 2007).

## **NESTED NEWNESS IN PRACTICE: NEW POLITICS AND GENDERED INSTITUTIONS IN POSTDEVOLUTION SCOTLAND**

Operationalizing the concept of nested newness means setting out the institutional context in a particular case and exploring the elements that



constrain or enable change. The constitutional structure of the UK has been “reengineered” as a result of political devolution in the 1990s and the creation of new legislatures in Scotland, Northern Ireland, and Wales (Jeffery 2009). These wider processes of change created new sites and opportunities for feminist interventions and have also been shaped by them.

Feminist reformers — or gender-equity entrepreneurs (Chappell 2002) — worked as part of a broader-based movement for constitutional reform to engender debates about the shape and form of constitutional change, including more proportional electoral systems, quota-type mechanisms, equality policy machinery, and more participatory policy making. These gender-equity entrepreneurs were part of the “winning coalition” and ensured that gender equality was taken into consideration during the design process.

Nested newness alerts us to ways that new institutions, like the Parliament (and its associated new rules, norms, and practices) are nested temporally in terms of legacies and path dependencies as well as spatially and structurally in terms of its institutional environment and ongoing interactions with other institutions. Institutional configurations and developmental paths may complement or contradict, enable or frustrate the aspirations of new institutions and reformist actors. In the Scottish case, a number of intersecting reform paths came together to provide conducive conditions for the successful integration of women as actors and new ideas about more inclusive politics. These included wider reform trajectories of party modernization at the UK level (particularly in the statewide Labour Party) (Kenny 2013; Mackay, Myers, and Brown 2003); European and global trends in problematizing the chronic minority status of women and efforts to reform institutions of political recruitment, particularly through gender quotas (Kenny 2013); wider debates about a crisis of democratic legitimacy in the global North and the need to modernize politics to make it more relevant and responsive to civil society and citizens (Brown 2001); and responses to wider processes of neoliberal state restructuring, including the resurgence of territorial identities (Jeffery 2009). The inclusion of women and the promotion of gender equality came to be seen as emblematic of a wider aspiration for “new politics” in Scotland: a more inclusive politics departing from the zero-sum games of the “Westminster model” (see Brown 2000; Mackay 2006; and later discussion).

However, the impact of other institutional configurations may be less favorable or predictable: the new Parliament sits in a multilevel system of

governance with overlapping and shared competencies and responsibilities (Jeffery 2009), which may complement or trump its institutional capacity. There are both legacies and ongoing continuities of administrative devolution whereby the civil service (public officials) remains part of, and is acculturated by, the UK-wide Home Civil Service (Jeffery and Mitchell 2009). The institutions of political recruitment and party systems remain only partially reformed with little evidence of “contagion” of, for example, gender candidate quotas across party systems or different electoral levels (Kenny 2013). Largely unreconstructed political media remain dominated by male journalists and are wedded to adversarial models of politics (Jeffery and Mitchell 2009; McFadyen 2014). The most prominent, and perhaps most problematic, institutional “big beast” in terms of understanding *nestedness* as the combination of institutional legacies and ongoing interconnections is the UK (Westminster) Parliament and the so-called Westminster model, which underpins its practices and culture. The features of the Westminster model (evolved in the UK Parliament and exported, mostly, to former British colonies) include majoritarian electoral systems, usually resulting in strong party parliamentary democracy, single-party governments, the periodic rotation of power between two main parties, and adversarial political culture; fused institutions of legislative and executive branches, with concomitant centralization of power and executive dominance; and the doctrine of parliamentary sovereignty concentrated in the lower House (see Moran 2011). The designers of the Scottish Parliament, including gender-equity entrepreneurs, had self-conscious aspirations to create a new set of institutions that would depart from the Westminster model and that would promote a different political culture (Brown 2000; 2001; Mackay 2006).

The Westminster parliamentary model (“old politics”) can be presented as one of “hegemonic political masculinity” (Connell 2002; see also Sawer, Tremblay, and Trimble 2006). It rests on particular notions of the public domain, a masculinized domain that is bounded and clearly separated from the “private” feminized domain of family and household dynamics and the personal lives of citizens. Crudely speaking, power, sovereignty, and authority are all gendered masculine at the symbolic level as well as, as a rule, at the level of presence. As Lovenduski points out, the institutions and practices of the Westminster model center around zero-sum games from the winner-takes-all electoral system, notions of indivisible parliamentary sovereignty, executive dominance of the legislature, to the gladiatorial and competitive political culture of “hostile

strangers.” The institutional arrangements and political culture that comprise the Westminster model privilege “rhetoric, speechifying, posturing, and arcane practice over cooperation, consensus-seeking and real discussion of alternatives” (Lovenduski 2005, 54).

Despite the increased presence of women and members of ethnic minorities over recent decades, the UK House of Commons remains an exclusionary, masculine-gendered, white, and heteronormative institution, where women and ethnic minority newcomers are treated as “Space Invaders” (Puwar 2004). Men and women are required to enact the dominant form of competitive masculinity in order to be politically effective (Lovenduski 2005). Recent media reports suggest that the House of Commons continues to be dominated by “testosterone-soaked posturing” and “playground-style name calling” (see, for example, Assinder 2014). Furthermore, the formal institutions and informal norms of Westminster remain premised upon others “taking care of care” and divorced from daily reproductive and caring work.<sup>4</sup>

The “new politics” of the Holyrood model relates to new institutions, new processes, and new political culture (see, for example, Brown 2000; Mitchell 2000). The founding documents of devolution envisioned a new institutional balance, a parliament that looks like everyday life in its social composition, the displacement of adversarial politics by a new, more collaborative way of conducting business within the Parliament, and a “step change” (Bonney 2003, 460) in popular participation by citizens outside the Parliament. These may be summed up by the Parliament’s four key founding principles: access and participation, equal opportunities, accountability, and power sharing (Consultative Steering Group on the Scottish Parliament 1998).

Each principle of the new politics model can be seen to present a challenge to “politics as usual” and traditional “command and control” models. At a symbolic level, “new politics” disrupts hegemonic (masculinist) political models. It does not privilege zero-sum games and is more inclusive in its promotion of “other-oriented” political norms and practices. It is less bounded than the Westminster model, breaking away from Westminster paradigms of centralized authority and uncompromised sovereignty, which feminist scholars argue are tightly coupled with hegemonic masculinities (Connell 2002; see also Jones

4. This is not to deny that the Westminster model is under challenge — including in the real world of the Westminster Parliament. However, as an idealized model, Westminster remains a powerful cultural force in the UK and beyond.

1993). Furthermore, it recognizes caring responsibilities of MSPs and citizens (symbolically and practically), for example, through the observation of family-friendly hours, sittings that are confined to school-term times, and the provision of a visitors' crèche. The commitment to gender mainstreaming and, subsequently, gender responsive budgeting (as part of a wider equalities mainstreaming strategy) questions the presumed gender neutrality of political and policy institutions and challenges the ways in which these institutions reproduce and contribute to gender inequality through assumptions, taken-for-granted values, and everyday working practices that shape policy processes and work priorities.

Elected under the more proportional electoral system of MMP (Multi Member Proportionality), the new Scottish system is designed to promote multiparty politics and coalition government, both significant departures from the Westminster "winner takes all" model. Crafted as a check on executive dominance in a unicameral system, the parliamentary committees also depart from the Westminster model. They are, on paper at least, powerful and multifunctional, holding the executive to account and playing an important role in the initiation, development, and scrutiny of policy (Arter 2002; Brown 2000). Finally, the creation of a horseshoe-shaped chamber and the introduction of parliamentary codes of behavior were designed to encourage a less adversarial, more civil, and purportedly more "modern" style of politics (Brown 2000).

How do actors enact new institutions? No institutional blueprint is complete, so, for a start, there are always ambiguities for different groups of actors to contest, elaborate, and exploit. The central paradox of postdevolution politics in Scotland is the coexistence of the new and the old. In terms of the new, the Scottish Parliament has comparatively high levels of female representation (at 37.2% in 1999, it stood at almost double the Westminster figures; currently it stands at 35%). The entry of new political actors (women, many of whom had not served in electoral politics before) has diversified the social composition of the new legislature by improving the descriptive representation of women, as well as decoupling the association of men and certain sorts of masculinities from political entitlement and office. At the time of writing (2014), women lead two of the four main political parties and comprise 40% of the Cabinet.

There is also evidence of some new regendered paths and outcomes: as well as the "normalization" of women politicians, we see the reframing of classic women's issues, such as domestic violence and childcare, as

mainstream issues of political priority (Chaney 2006; Mackay 2010); the introduction of feminist perspectives to areas not traditionally viewed as gendered, such as transport and economic development; and the championing of equalities mainstreaming (including gender) and gender budgeting (McKay et al. 2002). The style of policy making is more inclusive and consultative than its Westminster counterpart (Keating 2010), including the routinized participation of women's organizations. These developments and new paths reflect some of the original demands and design aspirations of critical actors and their allies for new political institutions, principles, provision, and practices that were more responsive to women's concerns, more likely to tackle structural discrimination, and in which women could play an equal role (Mackay, Myers, and Brown 2003).

However, on the other hand, these new elements have not displaced the old but interact and coexist with masculinist practices and underlying norms of "politics as usual" in sometimes contradictory ways. As a higher-order institution and a powerful legacy, the institutions and norms of the Westminster model exert a considerable drag. In so doing, it constrains the potential for new paths and limits reform. The Westminster model was presented as discredited during devolution debates; however, subsequently, each design decision represented the negotiation of different normative and strategic considerations and trade-offs. The official rhetoric of the devolution campaign was dominated by progressive reform groups of cross-party and nonparty actors and was informed by the participatory and pluralist ideals of wider civil society. Yet, according to commentators, there were different definitions of "new politics" at play within and outside the coalition and very different levels of enthusiasm and commitment across and within parties and between political parties and civil society actors (Mackay 2006, 184–85). Although there were champions of new politics within all the political parties, many individuals and groups remained unconvinced about the desirability or feasibility of "new politics." As the founding coalitions dissipated and actors began to "enact" the new institutional rules and roles of postdevolution politics, many key elements of the Westminster model have survived or have been reinstated. These include the strong party parliament, political partisanship and party loyalty, conventions constraining legislative oversight of the executive, and adversarial rather than collaborative political styles. These pressures mediate and shape the capacity of women and men to act in collaborative ways or to promote new politics, including gender and equality measures and norms. Within

a few short years, commentators had adjudged that “new politics” had been defeated and has been replaced by “politics as usual” (Bradbury and Mitchell 2001).

### **MECHANISMS OF INNOVATION AND RESISTANCE: REMEMBERING AND FORGETTING**

Institutions are shaped in ongoing processes of contestation, including in the interpretation, enactment, and enforcement of rules. The “old” has come back in a number of ways: first, in formal ways — for example, “filling gaps” in the detail of institutional blueprints, with the Westminster model providing the default position for standing orders and procedures in all instances where reformers did not specifically advocate different ideas (Winetrobe 2001). Second, the “old” has provided a repertoire of techniques for tackling problems; institutional actors “fall back” on the “old,” even though the architects of devolution self-consciously set up the Parliament in distinction to the Westminster model.

Earlier, I highlighted a number of tools or mechanisms deploying the “old” or the “new” that actors can use in the postdesign, institutionalization phase of institutional development. In the following section, I sketch out some examples from the Scottish case of both “remembering” or “recalling” the old and “forgetting” the new.

#### **“Remembering” the Old**

As noted earlier, the Westminster model has provided institutional actors with a repertoire of techniques for tackling problems. For example, early in the life of the new Parliament, political leaders “remembered” the Westminster convention of Prime Minister’s Questions — the largely symbolic weekly exchange between the prime minister and leader of the opposition on the floor of the House of Commons — and reincorporated it in the new Scottish Parliament as First Minister’s Questions (FMQ). FMQ was introduced in response to a perceived lack of political “theater” in the chamber, which had been designed to promote more consensual politics. An absence of institutionalized opportunities for political grandstanding was considered a problem — and a weakness — by the political elite and the political press corps, although there was no evidence that civil society or the wider public shared these concerns. In addition, the government was anxious that, without a weekly gladiatorial

contest in the chamber, the first minister might be perceived as “having no appetite for the fight” (Winetrobe 2001, 157).

The original designers had eschewed such showpieces in favor of low-key but more substantive opportunities for executive accountability, including through committee mechanisms. As Winetrobe (2001, 160) observed,

For the Parliament to react to difficulties with one of the more original aspects of . . . this . . . blueprint, not by seeking a novel or radical solution, but by appearing to import [a] familiar and conventional Westminster practice . . . may be unconsciously signalling that it is unwilling or unable to . . . explore more innovative techniques of scrutiny of the executive, and for holding it to account.

Thus, a new formal rule was displaced by the introduction of an old formal (Westminster) rule; and in so doing, new informal norms, which assigned value to typically feminized attributes of collaboration rather than competition, were undermined by the reassertion of old and masculine-coded norms of adversarial parliamentary performance.

In a similar vein, Westminster practices of strong party discipline (“whipping”) have increased rather than decreased over time in the Scottish Parliament. Despite the executive checks (new formal rules) designed into the parliamentary blueprints, party leaders have remembered — and MSPs have acquiesced — in the introduction of voting along party lines in committees as well as the Chamber. Thus, old informal Westminster conventions at play have trumped new formal rules and, in so doing, limited the potential capacity of the committees to act as an alternative source of power and innovation (Arter 2002).

The “falling back” on the old reaffirms Westminster as the hegemonic model of political authority, both in terms of those formal rules “borrowed” by the new Parliament, and dominant informal norms in play, even in cases where the formal rules differ from those of Westminster. This has both general and gendered outcomes. It blunts reformist potential and closes down new paths for institutional development and alternative political practices for both female and male politicians. At a symbolic level, the reassertion of traditional rules and norms of political authority, as exemplified in the Westminster model, also reaffirms the gender status quo. At a practical level, women politicians may pay dearly for their close association with a feminized new politics when the model is discredited and undermined — namely through the reassertion of political efficacy as masculinist grandstanding and adversarial politicking. Indeed the comparative evidence suggests

that the linking of combative political styles with political efficacy disadvantages women parliamentarians (Goetz 2003; Sawer 2000).

### “Forgetting” the New

Equal opportunities comprises one of the four key principles of the Scottish Parliament; principles around which the Consultative Steering Group (CSG) — a cross-party, nonparty, and gender-balanced group appointed to draw up the Parliament’s standing orders, procedures, and institutional blueprints — designed their recommendations (Consultative Steering Group on the Scottish Parliament 1998). The equal-opportunities key principle was proposed and championed by feminist members of the CSG early in the process of debate and negotiation. However, civil servants servicing the group consistently “forgot” to include the proposed principle in successive minutes and drafts. According to CSG members, this required “polite battles” with the secretariat and prompting and reprompting for the principle to be incorporated successfully into the final report.<sup>5</sup> While there was unanimous support from members for the inclusion of the principle, it took the persistence of gender-equity entrepreneurs to ensure that it was included at the design stage.

Adopted by the Parliament and embodied by the Equal Opportunities Committee (one of three mandatory committees), this founding principle was apparently built in with the bricks of the new institution. However, in practice, it is routinely “forgotten.” For example, when the Procedures Committee of the Parliament launched its wide-ranging review of the operation and impact of the “key principles,” it omitted the key principle of equal opportunities from its original terms of reference (Scottish Parliament Procedures Committee 2003). It took protests by feminist politicians, women’s groups, and equalities civil society organizations before the remit was amended to include *all* the key principles. Despite the espoused centrality of equal opportunities to the Parliament and its business — and its evident achievements, including external plaudits — the Parliament continues routinely to “forget” to highlight and publicize its work in this field.

As noted, institutional blueprints created a mandatory parliamentary committee to act as a champion for equal opportunities and as a “catalyst” to facilitate mainstreaming good practice across the Parliament. While well regarded by external equalities constituencies, according to

5. Personal communication with member of the CSG, 2002.



informants internally, it is perceived to be somewhat isolated and undervalued — something of a “back water” despite the espoused importance of the principle by the Parliament as a whole (Mackay 2009a). Furthermore, despite all parliamentary committees being formally responsible for equal opportunities and despite repeated endorsements of the mainstreaming approach, “mainstream” committees remain unlikely explicitly to address the equalities dimensions of their subject area or to make links between their own work and that of the Equal Opportunities Committee (Mackay 2009a; Scottish Parliament Procedures Committee 2003).

The innovation of the parliamentary crèche and its symbolic and practical significance in terms of opening up the Parliament to all its citizens (see earlier discussion), have been forgotten periodically by parliamentary corporate managers. Instead, the provision has been repeatedly proposed for closure as part of cost-cutting exercises or in the context of pressure on space. MSPs, mostly although not entirely female, have lobbied over the decade: first, to ensure the planned crèche got off the drawing board; and secondly, to demand the facility is supported and adequately funded and promoted (Mackay 2009a).

While it is unclear whether these are processes of active neglect or passive drift, it nonetheless suggests that the formal prominence of equal opportunities as a founding principle and the promotion of family-friendly values are not tightly coupled to informal norms, which attribute prestige to certain activities and not others. As a result, despite formal new rules that prioritize equal opportunities, old informal norms work to undermine its status.

## THE LIABILITY OF NEWNESS AND THE GENDERED LIMITS OF CHANGE

What might explain the propensity of institutional actors to “fall back” on the old during processes of reform and moments of theoretical openness? Conditions of uncertainty and incomplete information characterize most “real world” contexts of institutional reform efforts. Over and above purposive resistance by actors opposed to reform and cognitive processes by actors (of all types) to reduce unfamiliarity and uncertainty, I argue that the quest for legitimacy to attenuate the “liability of newness” provides an important part of the puzzle (Nagy and Lohrke 2010; Stinchcombe 1965). In seeking internal and external credibility and

legitimacy, actors in new institutions are likely to fall back on authoritative modes — firmly anchored and recognizably so — which tend to be older, more traditional, and hegemonically masculinized rules, gendered norms of appropriateness (Chappell 2006), and ways of doing things. The liability of newness is therefore gendered. Actors draw upon gendered conceptions of both liability and legitimacy, with consequences for women and for prospects for the regendering of politics. The paradox in the Scottish case of institutional actors eschewing the Westminster model in the reform phase and (to an extent) in the design phase, but reverting back to Westminster modes in the institutionalization phase, can be understood not only as the result of ongoing contests, but also as a legitimacy-seeking exercise. In some instances, there has been active resistance and explicit attempts to reverse or abolish nascent gender reforms, as Kenny's work demonstrates in the interconnected institutional arena of party candidate selection and recruitment where old ideals of "favoured sons" have resurfaced (Kenny 2013). But it has also taken the form of institutional amnesia and political drift, whereby new rules are forgotten, new actors marginalized, and new ideas, policies, and practices are discarded or neglected in broader processes. Old rules and practices that comprise the Westminster model serve as powerful shorthand. In adopting them in addition to, as well as sometimes instead of, new rules, political actors seek to mitigate the vulnerabilities and liabilities of newness by demonstrating that the new political institution of the Scottish Parliament is "in authority" and "an authority." Indeed, some commentators approvingly point to the adoption of Westminster practices as a sign of the Parliament's "maturity."<sup>6</sup>

## CONCLUSIONS

While embedding institutional innovation is always difficult, the combination of "newness" and "gender" appears to make the institutionalization of reforms even harder. Although change in both directions is possible, feminist scholarship has documented what appear to be particular vulnerabilities of gender equality reforms to resistance, erosion, drift, and reversal. Nested newness provides a way of starting to think about the bounded nature and contradictory outcomes of

6. Study of Scottish Parliament Group Annual Event, June 29, 2012. Discussion of "Parliamentary Reform" by parliamentarians, officials (from Westminster and Scottish Parliament), and academics held under the Chatham House Rule.

institutional innovation by highlighting the complex configurations and interconnections of political institutions in multilevel systems. Crucially, the contention is that institutions and the wider environment in which they are nested are gendered.

New formal institutions, even those that seem to represent a break with the status quo that went before, are neither blank slates nor free floating. Rather, they are the carriers of multiple — sometimes contradictory — interests and ideas; they are marked by past institutional legacies and are shaped by initial and ongoing interactions with already existing institutions (formal structures and rules, informal rules, practices and norms) within which they are “nested” and interconnected. Institutions and their internal processes and interactions are gendered. Gender-equity entrepreneurs and their allies must contend with powerful and deeply embedded rules and relations, which may blunt the reformist potential of new institutions and their designers. The “playing out” of gender at symbolic and interpersonal levels can serve as an important mechanism of institutional reproduction (including the reproduction of power and of existing gender relations), but also can work in less predictable ways to challenge the status quo and drive change. In most cases, institutional innovation comprises bounded change within an existing system.

Institutional innovation — or newness — is nested in time and sequence. So, in Scotland, women and gender-equity entrepreneurs were part of a winning coalition at a particular moment of reform and confluence of several enabling reform trajectories. Gender-equity concerns became part of institutional blueprints of a wider “new politics.” However, newness is also nested within a dense institutional environment comprising sets of institutional legacies and ongoing dynamics, including gender regimes that can open and foreclose opportunities for the embedding of innovations and opportunities for new paths. In the Scottish case, the Westminster model demonstrates the *nestedness* of reforms as the combination of institutional legacies and ongoing interconnections and the powerful drag of the old (even as the Westminster model is challenged in the real world of Westminster).

In the Scottish case, rules and practices associated with “new politics,” including gender reforms, have been partially institutionalized. There is not a clear-cut case of one sort of politics eliminating the other, but rather a case that both coexist in tension, one more or less in the fore depending upon context and issue. But overall, the reformist potential has been blunted, and new politics features tend to thrive best “on the

margins.” Reforms have also survived where political institutions and actors have been prompted and reprompted to remember their promises by organized women’s movement groups. The vulnerability of reforms in even a best “best-case scenario,” such as Scotland, demonstrates the difficulties of gender reforms and more general change processes, which carry with them the potential to unsettle and challenge the gender status quo.

Gendered conceptions of nested newness and the liability of newness provide useful tools for understanding and explaining the tendency of reforms to be blunted or diluted. I am neither arguing that this is deterministic, nor am I arguing that newness is always progressive and that the old is regressive in all contexts. However, the stickiness — and authority — of old rules and norms (formal and informal) about gender and the nestedness of new institutions within the wider environment, including existing gender regimes and gender dynamics, provides a powerful explanation for why it seems so hard to make stick reforms conducive to the regendering of politics.

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