

Who Institutionalizes Institutions? The Case of Paternity Establishment in the United States*

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Objective. Many researchers have cited the importance of institutional legacies to explain why legislators resist transferring tasks from one agency to another but leave undefined exactly what constitutes these legacies. This analysis concretely defines institutional legacies as organized interests who shape the range of options available for programmatic implementation. *Methods.* Using a pooled, time-series ordered probit model for the U.S. states from 1988 to 1995, this article focuses on the transition from court-based systems to administrative agencies in making paternity determinations. *Results.* Lawmakers are less likely to move to administrative systems in states where there are family courts, elected judges, and a large number of lawyers organized into the American Bar Association. The presence of women legislators, however, can mitigate these legacy effects and move the process of innovation onward. *Conclusions.* Institutional legacies are best conceptualized as strong, organized interests who resist relinquishing any part of their authority, even when confronted with more effective ways of achieving policy goals.

How do legislators decide which institutions should be responsible for solving social problems? Past research has primarily focused on how lawmakers assign responsibilities when a program or policy is new. For example, principal-agent theory examines the circumstances under which legislative bodies delegate policy powers to administrative agencies. Those exploring the issue through this perspective have focused on legislators' desire either to manage their workload (McCubbins, Noll, and Weingast, 1987, 1989), transfer the blame for unpopular decisions (Fiorina, 1982), or disguise the inner workings of the political process (Arnold, 1990). Other researchers have examined this problem using a transactions-cost approach, arguing that policies are delegated only if politically efficient mechanisms exist for doing so (Epstein and O'Halloran, 1999).

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Although useful in many respects, these theories only describe lawmakers' preferences in the first round of policy development. We also need to understand the conditions under which legislators render past institutional or agency choices inadequate and *replace* them with new methods of conducting business, especially at the state level. This is important because selecting one institution over another can either help policymakers achieve their goals or hinder them from doing so (Komesar, 1994; Bawn, 1993).¹

From this alternative perspective, the range of options for implementing a specific policy is limited by the institutional arrangements or legacies that have dealt with the issue in past years (Skocpol, 1985; Pierson, 1994). There is, in other words, a certain inertia that arises around ways of conducting business that effectively stalls or even prohibits legislators from considering new implementation techniques. Missing in this line of argument, however, are the *mechanisms* by which this institutional resiliency reproduces itself. What exactly causes institutions to be "sticky"? How can we better conceptualize the forces that work against institutional change?

This article addresses these questions by studying institutional resiliency in the court system, and more specifically, by examining the evolution of paternity establishment in the United States. During the late 1980s and early 1990s, the child support enforcement program underwent a monumental transformation. Numerous states began to transfer paternity determinations, key to any successful attempt at support collection, from the judicial arena into the domain of the state child support agency. The rationale behind this change centered on cost-effectiveness. Not only could the state agencies process these cases with fewer resources than the courts, but they could also dispense enforceable orders on a mass level, a task that the courts, bound by rules of due process, could not (Carp and Stidham, 1993; Horowitz, 1977). Yet, whereas many states moved very quickly toward establishing these administrative systems, other state lawmakers remained wedded to judicial processes. The central puzzle, then, is explaining this differential response.

As a starting point of analysis, it is important to understand that judicial institutions are not empty vessels. The individuals who work within them shape the rules, norms, and standard operating procedures under which all policies are executed. It is thus not simply that the judicial institutions *themselves* as actorless entities have a stake in retaining control over certain areas of public policy. Rather, it is the people working within these institutions who, fearful of change, make concerted efforts to prevent legislatures from reassigning their responsibilities to other units of government. As this analysis will demonstrate, states with court personnel highly involved in family dispute resolution processes were exactly those states that lagged be-

¹ The terms "institutional change" and "agency change" are used interchangeably here to mean the reassignment of tasks away from one setting to another.

hind the rest of the country in moving toward administrative systems in paternity establishment.

Judicial Institutions and Paternity Establishment: Historical Antecedents

Illegitimacy has always posed serious social and moral questions for law-makers. For decades, American society punished the “sin” of illegitimacy in a variety of ways, including treating the child as a legal nonentity, with very few rights to social welfare and inheritance benefits (Melli, 1992). Because of this rampant discrimination, as time progressed, an increasing number of mothers sought to establish legal paternity for their children through the only institutional vehicle available: the state court system. Unfortunately, these proceedings were time consuming, resource intensive, and frustrating for all parties involved (Melli, 1992; McKillop, 1981).

Several developments during the 1980s prompted state legislators to experiment with new institutions in deciding paternity cases. The first impetus for change was an evolving legal framework. The 1975 creation of the Federal Child Support Enforcement Program formalized the government’s role in establishing paternity. As a condition for receiving Aid to Families with Dependent Children (AFDC) benefits, mothers had to cooperate with state officials in identifying the father of their children. Once the father was located, the state could pursue him for child support payments; all monies collected would reimburse the government for the welfare expenditures already laid out on behalf of his children. Later, the 1988 Family Support Act and the 1993 Omnibus Reconciliation Act each placed additional requirements on the states to improve paternity establishment rates for both welfare and nonwelfare families alike.

The second factor motivating the reform movement was pathbreaking research linking positive childhood development with paternal contact. Family policies in the United States had traditionally treated fathers as economic providers rather than as potential nurturers. During the 1980s and 1990s, however, this perception began to change. Social scientists started producing numerous studies that reported that children who came from single-parent families had lower educational outcomes, higher juvenile delinquency rates, and a higher incidence of mental illness than children raised in two-parent families (Chilman, 1980; Furstenberg, 1990). The policy implications from this research were simple. To reverse these negative outcomes, children needed to know and interact with both parents.

The third change involved advances in genetic testing, primarily the use of deoxyribonucleic acid (DNA) matching. DNA technology enabled governmental authorities to establish linkages between parents and their children with marked accuracy (Melli, 1992). DNA testing far surpassed its predecessors—A-B-O blood typing, red cell enzyme and serum protein electrophoresis (based on red cell genetic material), and human leukocyte antigen (HLA) testing (based on white blood cell genetic material)—be-

cause it provided highly reliable *inclusionary* evidence of paternity (i.e., Man X is the father) rather than simply *exclusionary* evidence (i.e., Man X could not be the father) (*Paternity Establishment*, 1985). In sum, DNA evidence was an extremely precise way of matching fathers with their children that promised to completely remove the “he said, she said” dynamic from the courtrooms.

Explaining State-Level Variation in Institutional Choice

During the period 1988–1995, then, states had various incentives to move toward a more cost-effective and rapid means of establishing paternity, that is, to move away from the judicial model that had dominated in the past. One option was the administrative model, whereby major paternity decisions would be undertaken and/or supervised by the state child support agency rather than the courts. The scope of each state’s administrative transition provides the basis for the dependent variable used in this analysis.

To gauge a state’s transition to administrative processes, a simple index was created. The ordinal scale ranged in value from 0 to 3, based on a count of the number of policies the state had operable in moving toward the administrative regime during any year between 1988 and 1995. The three policies considered here were (1) in-hospital voluntary acknowledgment-of-paternity programs; (2) posthospital presumptive/conclusive voluntary acknowledgment-of-paternity programs; and (3) posthospital presumptive/conclusive genetic testing as proof-of-paternity programs.²

These three initiatives all signified a fundamental institutional change in paternity establishment. The in-hospital strategy was simple. Rather than wait until mothers had the opportunity to take their children home and fathers had the time to reconsider their options regarding their financial obligations, child support caseworkers would immediately intervene at the hospital to attach all fathers’ names to the birth certificates.

Paternity could also be assessed administratively at a later date. The adoption of posthospital systems meant that a man’s voluntary acknowledgment of fatherhood or a genetic test suggesting paternity created a *presumptive or conclusive basis* for proving paternity, rather than simply *evidence of paternity*, a weaker standard used by the courts.

²The period of analysis begins in 1988, when all of the paternity programs had begun in at least one state, and concludes in 1995, before the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). This is important because PRWORA made these three policies mandatory, whereas this analysis focuses on state-level voluntary initiatives.

Hypotheses Concerning Court-Based Institutional Resiliency over Time

The concept of court-based institutional legacies suffers unnecessarily from definitional ambiguity, as indicated above. The purpose of this analysis, therefore, is to specify the exact nature of the interests behind these legacies. Who, concretely, seeks to preserve the status quo, and what specifically are they protecting when they fight against the legislative movement toward administrative decision making? In this case, personnel within the state court systems are hypothesized to have led the resistance drive.

Family Courts. State court systems have always been highly complex.³ Policymakers constructed these courts in a chaotic time in rapid response to the massive influx of litigation brought about by industrialization. These judicial architects, however, failed to coordinate their efforts according to some overall, standardized plan. Rather, each state developed intricate methods for handling the variety of complaints that began appearing before the bench.

In response to this complexity, reformers from the upper echelons of the judiciary made numerous attempts to unify the state court systems both organizationally and financially. The idea was to create a top-down management system for all state courts. Yet, while many state policymakers quickly streamlined their judicial systems, others, such as those in Mississippi and Vermont, fiercely guarded their separate, specialized courts. Tasks performed by these specialized courts involved (and continue to involve) settling disputes about small claims, traffic violations, environmental regulations, and most significantly for the analysis to be conducted here, family relations. What, then, have been the major organizational consequences of these sprawling court systems?

The first major ramification has been the decentralization of responsibility. Each court has become a judge's own personal fiefdom (Tobin, 1999:60). Local citizens gain familiarity with their judges, and the judges, in turn, become accustomed to their local communities. Similarly, judges working in urban environments learn about their own jurisdiction's culture, as do rural judges. Regardless of the setting, each judge develops his/her own standards, guidelines, and professional rituals. And as judges become more vested in their own particular systems, they also become more resistant to any reform that threatens their jobs, including those that either centralize their duties or reassign them to other venues.

Second, particularized courts have also become central venues for activism. Each specialized court serves as a magnet for those individuals most

³Judicial data are from the *State Court Caseload Statistics, 1995, The Book of the States*, and the American Bar Association. All other variables are from the *Statistical Abstract of the United States, The Green Book, The Book of the States*, and the Eagleton Institute of Politics at Rutgers University.

interested in the issue at hand (Komesar, 1994). States with highly developed family courts systems, therefore, tend to attract court personnel and interest groups with strong concerns about child welfare (Tobin, 1999:247–55). This self-selection dynamic pulls those individuals with the greatest attachment to domestic dispute resolution issues into the family court system. It follows that those vested interests who have coalesced around these courts will pressure legislators to refrain from reallocating any part of their turf—including paternity establishment—to administrative agencies.

Hypothesis 1. Lawmakers in states with family court systems will be less likely to transfer paternity duties to administrative agencies than their counterparts in states without such courts.

Elected Judges. Americans have always been ambivalent about how judges should be chosen for office, and state court systems have reflected this ambivalence (Berkson, 1992; Friedman, 1985). Some argue for judicial independence, with either the legislature or the governor in charge of appointing judges. In the same spirit, others have championed the implementation of the Missouri Plan, whereby the governor selects judges from a special list of qualified nominees. In both cases, proponents of this type of selection mechanism argue that in order to be fair and equitable, judges must be insulated to the greatest extent possible from all political battles.

Directly opposing these views are those who espouse democratic control over the judicial selection process. Tracing their roots back to the Jacksonian Era, advocates of judicial democracy maintain that judges must be accountable to the electorate, not one step removed from the public. One of the main differences between the appointive and the elected system is that under the latter approach, judicial behavior may be influenced in more serious ways (Friedman, 1985:371–73). For example, in states where judges must face reelection after a designated time period, they may exhibit the exact same behaviors as their counterparts in the legislature (Hall, 1987, 1992). More specifically, they might engage in symbolic politics, avoid controversial positions at all costs, and raise campaign dollars from individuals who may demand a judicial “favor” in the future (Tobin, 1999:33).

Decision making also might be compromised. In states with judicial elections, judges may choose to ally themselves more intensely with the policy orientations of their constituents, rather than adhere to their own understanding of the law. Put more simply, judges’ political futures are linked to their association with popular causes. Child support is one such popular cause that guarantees judges votes. With only a handful of voters against strong child support enforcement, judges rely on their record on this issue to win another term. In that moving the task of paternity establishment away from their domain would rob them of this “safe” campaign issue,

elected judges are likely to oppose such a change and lobby legislators accordingly.

Hypothesis 2. Lawmakers in states where judges are elected to office are less likely to choose administrative processes for paternity establishment than their counterparts in states where judges are chosen by other means.

Strength of the American Bar Association. The impact of organized interest groups on the political process has been well documented (see, for example, Wright, 1996). Organized interests are believed to influence policy outcomes in three ways: (1) by providing information about a specific issue to constituents with the hope that they, too, will mobilize policymakers to vote with them; (2) by creating vehicles for the communication of these ideas from the voters to their representatives; and finally (3) by contacting legislators directly.

The judicial system is not immune from these pressures. Not only do courts pay more attention to organized interest groups' opinions as to which issues should be high on the judicial agenda, but they also are receptive to these groups' arguments in shaping legal outcomes (McGuire and Caldeira, 1993). As the primary representative of such judicial interests, the American Bar Association (ABA) is the largest voluntary organization in the world, with more than 400,000 members.⁴ In addition to accrediting law schools, the ABA is also active in offering pro bono services, providing continuing education courses, and policing its members against unethical behavior.

Nevertheless, although it engages in many publicly spirited activities, the foremost concern of the ABA is to protect the interests of its members. For example, the ABA consistently fights against encroachment on its professional turf by suing other organizations for the "unauthorized practice of law." State branches of the ABA have also strongly opposed court unification schemes that are economically disadvantageous to their members, especially plans that would cost lawyers their jobs (Tobin, 1999:93–97). In that moving tasks away from the family courts and into administrative systems would cut attorneys off from innumerable domestic cases, we can expect the ABA to actively lobby legislators to oppose such changes.

Hypothesis 3. Lawmakers in states with a larger number of ABA lawyers in relation to the population will be less likely to support administrative systems than states with a lower number of ABA members.

⁴Note that whereas all lawyers must be admitted to the state bar to practice law, the ABA is an entirely voluntary association.

Competing Explanations for Adhering to Court-Based Systems

Although court-based institutional legacies may play a primary role in preventing states from moving to administrative processes for paternity establishment, there are clearly alternative explanations for why lawmakers might adhere to or defect from the status quo. These include political dynamics, socioeconomic factors, and neighbor effects.

Political Dynamics. Election cycles often bring about bursts of policy-making. As elected officials begin focusing on their campaigns, they strive to make their accomplishments known to their constituents. In competitive races, politicians will be motivated to avoid highly contentious issues while associating themselves with intensely popular ones. They can signal their support for popular issues through a variety of techniques, such as position taking, credit claiming, and symbolic politics (Fiorina, 1977). Advocating improved paternity outcomes is a relatively cost-free position and therefore very attractive. If administrative arrangements promise improved outcomes over court-based systems, then governors and state legislators alike will be more likely to advance these ideas during election years than in nonelection years. Measures of both state and gubernatorial election year effects are therefore included in this analysis.

We also expect that Republicans will be less likely to advocate on behalf of administrative systems than Democrats. This distinction relates to each party's preferences with respect to the role of government versus the private sector in addressing societal needs (Lewis-Beck and Rice, 1985). In that the judicial process keeps paternity establishment out of the hands of bureaucrats, Republicans are likely to favor the status quo. States with a Republican majority in the legislature and/or a Republican in the governor's house are therefore less likely to move to administrative systems than states where Democrats dominate.⁵

What if one party controls the legislature, whereas the other controls the governor's seat? The impact of divided rule on the policymaking process has been extensively debated (Fiorina, 1992). Whereas some researchers discount the significance of divided government on policy outcomes, others argue that it is the most fundamental component of legislative breakdown in contemporary American politics (Sundquist, 1988; Edwards, Barrett, and Peake, 1997). According to this latter perspective, without a party that can lead in both the executive and legislative branches, stalemate on social problems is inevitable. We therefore expect that states with divided governments—wherein the governor and the legislature are of different parties—will be less likely to move to administrative systems than states with unified governments.

⁵Nebraska, with its nonpartisan legislature, was excluded.

Beyond divided government, professional legislatures may behave in different ways than nonprofessional legislatures. Professional legislatures are characterized by larger staffs, better pay, and longer sessions than “citizen-legislatures” (Squire, 1992; Rosenthal, 1996). During the 1970s and 1980s, many legislatures moved toward professionalization as a means by which to diversify their representative base. Fiorina (1992) and Ehrenhalt (1991) have argued that professionalization has, in fact, produced membership changes by reducing the opportunity cost for certain groups to participate in politics. More specifically, professionalization has increased the presence of more liberal candidates, who are likely to support administrative reform because of their progovernment belief systems. We therefore included both a general measure of professionalism—whether the legislature meets on an annual or biennial basis—and a composite index of professionalism (developed by Squire, 1992) in this analysis.

Finally, women legislators are also likely to have an impact on the reform process. Past research has demonstrated that women have different policy priorities than their male counterparts (Thomas, 1991). Not only are women more likely to sponsor bills concerning women’s issues, they are also more likely to consider them a priority and have a greater chance at translating these bills into law (Thomas, 1991, 1994; Bratton and Haynie, 1999). In that establishing paternity in the most efficacious manner possible helps mothers with children secure the income they need, women legislators are likely to be proactive reformers.⁶ It follows that large numbers of women in state legislatures will energize the movement to administrative systems, whereas small numbers will impede this transition.

Socioeconomic Factors. This analysis also includes numerous socioeconomic factors that previous research has documented to be central in social policy development. In particular, we focus on state-level variables that have the potential of placing budgetary stress on the child support system as a whole, thereby inducing policymakers to enact change (Tweedie, 1994; Plotnick and Winters, 1985). These variables include the states’ nonmarital birth rates, divorce rates, and the percentage of the population receiving welfare benefits. Each of these variables is expected to have a positive relationship with the move to administrative systems. Conversely, there are also buffers against these potential “stressors.” Richer states tend to have lower levels of social problems than poorer states. Therefore, inflation-adjusted per

⁶Although child support collections tend to help most single-parent families, there are always exceptions. Women receiving welfare, for example, may not view the program as beneficial because most collections from their former partners are retained as governmental reimbursement payments rather than distributed back to the families in need. The pursuit of child support may also have a negative impact on victims of domestic violence by reestablishing dangerous ties between them and their abusers.

capita income, also included in the model, is predicted to be negatively associated with the movement toward administrative systems.

Neighbor Effects. Finally, state officials may be influenced by the decisions of their neighbors (Berry and Berry, 1990, 1992). If nearby states move toward implementing administrative systems for paternity establishment and find them effective, previously laggard states might be induced to act. Neighbor effects, a count of the number of administrative measures that geographically contiguous states had in place during the previous year, were therefore included in this analysis and predicted to have a positive relationship with the dependent variable.

Methodology

The best technique for analyzing these relationships given the discrete and ordered nature of the dependent variable is the ordered probit model (McKelvey and Zavoina, 1975).⁷ This model uses maximum-likelihood techniques to yield the relative likelihood that the hypothesized model produced the observed data. Unlike those in the standard ordinary least squares (OLS) regression model, coefficients for the ordered probit model are not easily interpretable; that is, a one-unit increase in the independent variable does not translate into its coefficient's impact on the dependent variable. Instead, the coefficients are used to derive probabilities. To calculate specific probabilities for set outcomes, we use the estimated linear function (with its random component) to determine the likelihood that those outcomes fall within the range of specified cut points. The functional form of the estimated model is $Z = Bx + U$, where Z is the underlying latent dependent variable, Bx is the set of independent variables, and U represents the stochastic element of the equation. More specifically, we write Equation (1):

$$\begin{aligned} \text{Prob (Administrative Process}_j = & i) = \{\text{Prob}[k_{i-1} < B_1 \text{ (Court-} \\ & \text{Based Institutional Legacies}_{1j}) \\ & + B_2 \text{ (Political Dynamics}_{2j}) \\ & + B_3 \text{ (Socioeconomic Factors}_{3j}) \\ & + B_4 \text{ (Neighbor Effects}_{4j}) \\ & + B_5 \text{ (Year Dummies}_{5j}) \\ & + \text{error}_j < k_i\} \end{aligned} \quad (1)$$

⁷Of course, other statistical techniques are also available for analyzing this type of data (Greene, 1993). Event history analysis (Berry and Berry, 1990, 1992), for example, which estimates the probability of an event occurring given a set of independent variables, is an important technique, but it is most often used to track the spread of one phenomenon at a time rather than a change in a composite index, as is the case here.

where i is the value of the outcomes, j represents the states, k represents the cut points, and the error term is assumed to be normally distributed.

An important methodological point relates to the pooled nature of this cross-sectional data. OLS analysis is the best technique available to provide unbiased estimates of model parameters when the error terms are well-behaved or spherical. However, time-series cross-section data often suffer from the multiple problems of heteroskedasticity, contemporaneous autocorrelation, and serial autocorrelation (Stimson, 1985; Sayrs, 1989). There are several methods available to correct for these problems, including the least squares dummy variable (LSDV) model, the random coefficients model (using feasible generalized least squares), and OLS using panel-corrected standard errors with a lagged dependent variable (Beck and Katz, 1995, 1996). Although each of these techniques has its problems and trade-offs, year dummy variables with the ordered probit specification were used here.

Results: The Dominance of Court-Based Institutionalized Interests

The ordered probit results clearly reveal that court-based institutionalized interests are important in predicting whether states will adhere to judicial methods of paternity establishment or proceed toward reform (see Table 1). Models 1 and 2 present several preliminary estimations, and Model 3, the final model, is discussed below.

TABLE 1
The Movement Toward Administrative Paternity Systems

Independent variables	Model (1)	Model (2)	Model (3)
Court-based institutional legacies			
Family court	-.865** (.226)	-.958** (.213)	-.919** (.209)
Elected judges	-.323** (.134)	-.309** (.131)	-.321** (.133)
ABA lawyers per 1,000 people in the population	-3.105* (1.544)	-3.594** (1.292)	-3.991** (1.263)
Political dynamics			
State house election	.164 (.252)		
Gubernatorial election	.036 (.174)		
Percentage Republican in the state legislature	-.010* (.005)	-.006 (.004)	
Republican governor	-.407** (.141)	-.347** (.119)	-.344** (.119)

TABLE 1—continued

Divided government	.190 (.157)		
Annual legislatures	-1.129** (.269)	-1.210** (.234)	-1.213** (.234)
Squire index of professionalism	.740 (.547)		
Percentage of women in the state legislature	.082** (.011)	.080** (.011)	.076** (.010)
Socioeconomic factors			
Percentage of unmarried births	-.016 (.014)		
Divorce rate	.005 (.045)		
Percentage of the population receiving welfare	.120* (.054)	.133** (.043)	.147** (.042)
Per capita income	-9.29e-05* (4.66e-05)	-7.35e-05** (2.83e-05)	-6.86e-05** (2.82e-05)
Neighbor effects	.037 (.028)		
Summary statistics			
Cut 1	-5.53** (1.13)	-5.21** (.672)	-4.94** (.646)
Cut 2	-4.45** (1.13)	-4.15** (.659)	-3.89** (.634)
Cut 3	-2.45** (1.10)	-2.16** (.596)	-1.90** (.565)
Observations	392	392	392
Model Π^2	146.91**	104.33**	102.33**
Pseudo R^2	29%	28%	28%
Log-likelihood	-347.70	-352.00	-352.86

NOTE: Robust standard errors in parentheses. Per capita income dollars adjusted for inflation. CPI-U: 1982–1984 = 100.

**Statistically significant at the .01 level.

*Statistically significant at the .05 level.

Model 3 demonstrates that all predicted court-based institutional legacies—family court systems, elected judges, and the number of lawyers organized into the American Bar Association—were statistically significant with a negative sign, thereby supporting Hypotheses 1–3. Simply put, the presence of a family court and elected judges decreased the likelihood that a state would move to implement reform. Likewise, the greater the number of lawyers organized into the ABA with respect to the population also diminished a state's chances of moving in the administrative direction.

As for the factors beyond court-based institutional legacies that were included in the model, only a few were statistically significant. In the political

realm, the presence of a Republican governor inhibited this transition, as predicted. Interestingly, however, the existence of annual legislative sessions, one measure of professionalism, actually prevented reform (although the second measure of professionalism—the Squire index—was insignificant). This was an unexpected result, because professionalized legislatures were believed to be more willing to use administrative agencies for policy purposes than citizen legislatures. Perhaps the ties between legislators and court officials that are built up on a yearly basis are more difficult to sever than if these two groups interact only every other year. Finally, the coefficient for the percentage of women in state legislatures was highly significant and positive. In that moving paternity establishment duties from the courts to administrative systems tends to promote more efficient and reliable outcomes for the families involved, women legislators appear to be having a substantial impact.

Turning to the remaining sets of variables, there was only partial support for the hypothesis that states experiencing more socioeconomic stress would more quickly create administrative systems than states experiencing less stress. Neither the percentage of unmarried births nor the divorce rate had a statistically significant impact on the administrative process index. On the other hand, the percentage of the population receiving welfare benefits (positive sign) as well as the level of per capita income in the states (negative sign) did influence the administrative index in the expected direction. Overall, socioeconomic stress does explain part of this transition but clearly does not dominate over the importance of court-based institutional legacies. Additionally, there were no neighbor effects as states moved toward administrative systems.

Since the ordered probit coefficients are not easily interpretable, we then calculated the estimated probabilities that the states would remain completely judicialized given various combinations of the presence/absence of family courts and elected judges as well as the number of ABA lawyers in the population. Independent variables not under consideration were set at their means. These results are presented in Table 2.

Consider Case 1, without any obstacles to reform: no family court and no elected judges. With an assumption of zero ABA lawyers, the probability that a state remains completely judicialized is only .42%. If we again assume that there are neither family courts nor any elected judges but now hypothesize that there are six organized attorneys per thousand people in the population, the probability that a state has resisted reform rises to 40.5%.

Now consider Case 4, with multiple barriers to reform, including both the presence of a family court and elected judges. With zero organized lawyers, the probability of a state remaining completely judicialized is 8.2%. At the other extreme, with six organized attorneys per thousand people in the population, the probability of a state completely adhering to the court system rises to 84.1%. What, then, is happening in these states? The answer is simple. The greater the power of court-based institutionalized forces in op-

TABLE 2
 Predicted Probabilities of the States Retaining Completely Judicialized
 Paternity Establishment Processes

ABA Lawyers per 1,000 People in the Population	Case (1) No Family Court & No Elected Judges	Case (2) No Family Court & Elected Judges	Case (3) No Elected Judges & Family Court	Case (4) Family Court & Elected Judges
0	.42%	1.0%	4.3%	8.2%
2	3.31%	6.5%	17.9%	27.5%
4	14.9%	23.7%	45.2%	58.0%
6	40.5%	53.2%	75.1%	84.1%

NOTE: These estimates indicate the probability of a state falling into the 0 category of the dependent variable (i.e., the state has none of the 3 administrative paternity programs).

posing change, the less likely that state lawmakers will force these interests to relinquish any part of their authority.

Conclusions

In an ideal world of policy formulation and implementation, lawmakers would simply choose the most effective means of achieving a particular goal. "Most effective" could mean a variety of things but would almost always include some conceptualization of cost-effectiveness. To the extent that policymakers do *not* choose the most desirable way of conducting business, scholars have placed the blame on institutional legacies. In this view, the range of options concerning how a particular policy should be executed is limited by the institutions that have been laid down in the past.

Although the institutional legacy approach is important in that it draws our attention to the incremental nature of most policy changes, it lacks a specific description of the mechanisms by which institutions "take on a life of their own." This analysis has suggested that it is the *individuals* behind these legacies who are the promoters of this resiliency. These are the people who have a stake in the status quo either because their financial stability depends on the existence of these institutional arrangements or because they have become comfortable conducting business in the traditional way. New ideas that move their duties to other venues, therefore, are viewed as formidable threats. This intransigence has been extremely prominent in the case of paternity establishment, whereby we observed court personnel to be highly mobilized against change.

From a theoretical standpoint, these findings are critical in that they suggest the types of bridges that can be built between institutional and rational choice perspectives on politics. In the past, those who have argued that norms, rules, and procedures are the most important factors in public decision making have come into direct conflict with those who maintain that

individuals are the primary movers of political change. In contrast, with paternity establishment, we see the two visions actually interacting rather than colliding—namely, that individual actors are capable of manipulating their institutional environment with the direct goal of self-preservation. Overall, this type of research demonstrates the possibilities of theoretical convergence and the potential insights that might emerge from a more integrated approach to studying politics and policy, broadly defined.

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