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degree of D.Phil. in Management

**DOING DEALS IN A GLOBAL LAW FIRM:
THE RECIPROCITY OF INSTITUTIONS AND WORK**

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ABSTRACT

Since the early 1990s, institutional approaches to organizations have increasingly focused on explaining the role of agency in processes of institutional creation and transformation. The paradox of embedded agency, the question of how actors can become motivated and enabled to transform supposedly taken-for-granted practices, structures and norms has become the fundamental puzzle of contemporary institutional theory. Recent attempts to resolve this puzzle under the label of “institutional work” focus on practices aimed at creating, maintaining, and disrupting institutions, but portray them as planned, discrete episodes that unfold in isolation from everyday organizational or social life. Thereby, the label highlights institutionalists’ current neglect of work in its literal meaning as actors’ everyday occupational tasks and activities. The detachment of institutional work from practical work constitutes a significant blind spot in institutionalists’ understanding of agency and calls for research that examines the reciprocity of institutions and work.

Drawing on illuminating constructs from theories of practice, this study extends existing field-level approaches to the paradox of embedded agency. It argues for a practice-based institutionalism that focuses on individual actors and the role of their collective micro-level praxis in constituting macro-level institutions. It re-connects institutional arguments to everyday activity rather than organizational or managerial action, unpacks the micro-practices and micro-politics by which actors negotiate institutional contradictions and demonstrates the reciprocity of institutions and work.

The research addresses the detachment of institutional and practical work through a single-case study of a global law firm’s banking group. It explores what banking lawyers do when they ‘do deals’ and how their practical work may attain institutional relevance. Positioned at the intersection of local laws, international financial markets, commercial and professional logics, banking lawyers operate across multiple institutional frameworks. Observations and accounts of their work provide particularly rich insights into the dynamics of institutional persistence and change, because they illustrate empirically how contradictory institutionalized concepts, practices and logics are experienced, negotiated, and constituted at work.

Keywords: Institutional theory, institutional logics, embedded agency, institutional change, situated change, dialectical change, practice theory, professional service firms, law

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1 INTRODUCTION

Since the early 1990s, institutional approaches to organizations have increasingly focused on explaining the role of agency in processes of institutional creation and transformation. The “paradox of embedded agency”, the question of how actors can become motivated and enabled to transform supposedly taken-for-granted practices, structures and norms has become the fundamental puzzle of contemporary institutional theory. Various efforts have been made to conceptualize agency and change under the banners of “institutional entrepreneurship” (DiMaggio, 1988), “embedded agency” (Seo & Creed, 2002) or more recently “institutional work” (Lawrence & Suddaby, 2006). While they address certain gaps in the institutionalist understanding of the relationship between social structure and agency, they also reveal other shortcomings. Specifically, the recent conceptualization of agency as institutional work highlights institutionalists’ neglect of *work* in its literal meaning as actors’ everyday occupational tasks and activities. The detachment of *institutional* work from *practical* work constitutes a significant blind spot in institutional theory and calls for research that examines the reciprocity of institutions and work.

This topic is explored in the context of a global law firm and the work that banking lawyers do when they ‘do deals’. Positioned at the intersection of local laws, international financial markets, commercial and professional logics, banking lawyers regularly work across multiple jurisdictions and institutional frameworks. They are socialized within their local legal systems, professional structures and training regimes, but operate in an international web of actors whose different expectations, standards, and practices collide in everyday practical work. These contradictions must be constructively negotiated to get deals done. Thus, while international professional work is an inherently interesting phenomenon and important to understand in increasingly professionalizing and globalizing economies (Morgan & Quack, 2006b; Reihlen & Rohde, 2006), this case also provides a rich example of how different institutional arrangements are experienced, negotiated, and constituted at work.

1.1 The research topic and its significance

An investigation into the institutional implications of practical work stands in direct line with recent attempts to conceptualize agency and change within a theoretical framework originally conceived to explain similarity, conformity, and stability. Its primary objective is to inductively expand existing models of institutional creation, maintenance and transformation with a more microscopic perspective that focuses on individual actors and the role of their collective micro-level praxis in constituting macro-level social structures. Since the mid-20th century, institutional theorists have participated in the broader structure-agency debate in which sociologists and organization theorists alike try to illuminate the rational and structural determinants of human action. Actor-environment relationships have formed the core of different generations of institutional theory, each of which tried to rectify extreme assumptions of human voluntarism or determinism, albeit in different ways.

Assumptions of deterministic actor-environment relations posit that human action is shaped by an external environment to which actors respond “in a mechanistic or even deterministic fashion” (Burrell & Morgan, 1979:2). It provides stability, but also limits managerial discretion. In management theory, these assumptions have most clearly been reflected in technological or structural contingency theories (e.g. Burns & Stalker, 1961; Lawrence & Lorsch, 1967; Woodward, 1958, 1965). Assumptions of human voluntarism, by contrast, posit that in interaction with their environment human actors are the “master rather than the marionette” (Burrell & Morgan, 1979:2). This image of human nature underpins neoclassical economics, economic theories of organizations (e.g. Alchian & Demsetz, 1972; Olson, 1965; Ostrom, 1986; Shepsle, 1989; Williamson, 1975), as well as management theories that emphasize managerial discretion and rational action (e.g. Child, 1972).

Institutional approaches to organizations have always tried to occupy the middle ground between these extreme positions, but “old” and “new” variants have approached it in different ways. “Old” institutionalists (e.g. Parsons, 1951; Selznick, 1949, 1957) have problematized intra-organizational dynamics which create informal structures that deviate from intendedly

rational ones. They have focused on power structures, conflicting values, and interests by which organizational elites create organizational structures that are “infused with value beyond the technical requirements of the task at hand” (Selznick, 1957:17). This process by which an organization becomes infused with value and diverted for personal interest-seeking, constitutes institutionalization in Selznick’s terms. Critics, however, argue that the old institutionalism remained decidedly voluntaristic because it located institutional constraints on rational organizational action within the organization rather than in its environment, producing an imperfect break with the rational actor models it aimed to rectify.

Disillusionment with this “old” variant spawned a “new” institutionalism as corrective to overly voluntarist or determinist perspectives on organizational action (DiMaggio, 1988). New institutionalists seek the origins of technically inefficient organizational structures in the environment rather than the organization itself and specifically locate them in the social, rather than technical environment (Meyer & Rowan, 1977; Meyer & Scott, 1983b; Scott & Meyer, 1987). The locus of institutionalization is the “field” (DiMaggio & Powell, 1983), a social space in which organizations monitor and mimic each others’ features and evaluate their appropriateness.

However, thirty years after Meyer and Rowan’s (1977) foundational work, the question remains how much of the theory’s potential to balance elements of determinism and voluntarism, structure and agency, has actually been realized. Originally geared towards explaining the evident similarity and stability of organizational structures and practices, early institutional theory became dominated by reified notions of institutions as taken-for-granted or authoritatively sanctioned structures that condition behaviour and are themselves unassailable to change. The institutionalist theory of action became a theory of behaviour, in which institutions were routinely reproduced and divergent organizational or institutional change became hard to conceptualize (DiMaggio & Powell, 1991; Jepperson, 1991). Attempts to rectify this bias have characterized the second half of new-institutional theory’s 30-year lifetime.

In the mid-1990s, institutional theorists began to more actively draw on Giddens' (1984) structuration theory, which assumes a duality, rather than contradiction of structure and agency (e.g. Sewell, 1992; Whittington, 1992). On this basis, they increasingly renounced reified images of social rules, norms, practices and logics as impervious structures. Recently, they embrace alternative ideas of institutional structures as unconsciously or purposively enacted and maintained in action (e.g. Barley & Tolbert, 1997; Lawrence & Suddaby, 2006). Taking seriously the idea of institutional enactment in action, it appears that one cannot ignore practical work as a central aspect of everyday life in which social structures are perpetuated or transformed. Institutional theory has reached a point where the exploration of practical work and its institutional implications appears as the logical next step in developing the understanding of agency, structure, and their interplay in everyday praxis.

By exploring the interplay of everyday work and institutional arrangements, this thesis contributes to resolving the paradox of embedded agency, but also provides insights that are significant in the context of the overarching structure-agency debate in organization and social theory. It unpacks the micro-practices and -politics that characterize the negotiation and constitution of institutional arrangements in praxis and thereby helps realize the institutionalist promise of transcending the dichotomy of extreme voluntarism and determinism. It aims to produce a more realistic understanding of the relationship between micro-level agency and macro-level institutions and to underline the distinctive role of the new institutionalism in the broader structure-agency debate.

1.2 Research interest, question and contribution

The motivating research interest behind this study was to understand the institutional repercussions of international professional work. This was primarily born out of a personal interest in professional practice and an intuition that the collision of increasingly international operations and predominantly local institutions would make international professional work problematic. The question arose how individuals manage different local norms in their international work and how their practices feed back into broader institutional arrangements.

Professional work and its organization have long fascinated sociologists of the professions (e.g. Abbott, 1988; Carr-Saunders & Wilson, 1933; Freidson, 1983, 2001; Larson, 1977; Leicht & Fennell, 2001; Montagna, 1968; Wilensky, 1964). Professional structures are woven into the social fabric of almost all societies, support the smooth functioning of financial, legal, medical and educational systems, and control large parts of significant expertise among their constituents (Ackroyd, 1996). While initial interest focused on a narrow set of “true” professions like law, medicine and accounting (Abbott, 1988; Forsyth & Danisiewicz, 1985), broader approaches meanwhile include business advisory firms in management consulting, engineering, advertising, or investment banking (Empson, 2007b; Greenwood et al., 2006a; Maister, 1993). This shift, together with the continued growth of these organizations has recently attracted more management scholars to the study of professional service firms (PSFs).

The reliance on expertise as primary input makes PSFs exemplars of knowledge-intensive firms (Alvesson, 1995; Starbuck, 1992). Their distinctive organizational forms and practices are instructive for a growing population of organizations in increasingly knowledge-intensive economies (Greenwood et al., 2006a; Morris, 2008). Simultaneously, their increasing size in terms of revenue and employment makes PSFs important economic players in their own right. Over the past 25 years, the professional services sector has grown by more than 10% per annum to currently more than £560 billion in global revenues (Empson, 2007b). The largest PSFs like accounting giant *PricewaterhouseCoopers* with 146,000 employees and a gross revenue of over £12 billion in 2008 (Malhotra & Morris, forthcoming) “rival their *Fortune* 500 counterparts in almost all measures of size” or, like consulting firm *Accenture*, rank in this group themselves (Greenwood et al., 2006a:2). Much of this growth has been achieved through global expansion as professional firms have followed their clients abroad (Aharoni, 1993; Baden Fuller, 1993; Morgan & Quack, 2006b; Reihlen & Rohde, 2006). While accounting and consulting firms started the internationalization trend, corporate law firms have joined the bandwagon and considerably expanded their international reach over the last decade (Gabarro, 2007). Here, UK firms have taken the lead in expanding internationally and now serve clients through office networks that span the globe, although much less densely than those of accounting and consulting firms (Greenwood et al., 2006a; Malhotra & Morris, forthcoming).

However, globalization is only one aspect of the profound changes that law firms and legal markets have seen in the last decade. Corporate law firms have grown rapidly, their clients have become more international, and their transactions regularly span multiple jurisdictions (Gabarro, 2007). In 2006, leading UK law firm Clifford Chance broke the £1 billion revenue barrier, while the world's largest 13 firms still turned over more than £500 million each (Byrne, 2007). In 2007 the largest 50 US firms jointly earned £23.4 billion, while their UK counterparts reaped £10.75 billion (Byrne & Berris, 2008). Obviously PSFs in general and corporate law firms in particular have become powerful economic actors whose structures and practices should be well-understood. Especially the latter, however, have so far received little academic attention. While the governance, organization and strategy of professional organizations have been studied extensively, the actual practice of service delivery, what, for example, banking lawyers *do* when they 'do deals', has remained under-explored.

Especially with regard to law, which is inherently national and whose practice is tied to local histories, professional structures and socio-political institutions, international collaboration appears far from straightforward. This intuition was reinforced by the conjecture that PSFs often struggle disproportionately to build cross-national capabilities and realize the benefits of internationalization, based on the local specificity of their expertise (Morgan & Quack, 2004). Additionally, reports that groups of most internationalized and most profitable law firms hardly overlap (e.g. Byrne, 2004; Gabarro, 2007; The Economist, 2004), suggested at the beginning of the study that international professional work was a topic of practical relevance in this sector.

While many researchers study PSFs for their inherently interesting structures and practices, others use them as settings to research issues of broader relevance in organization theory. Here, the main reason for studying an international PSF lies in its potential to generate particularly rich data on the dynamics of institutional persistence and change in boundary-bridging work. The professions have been a prominent empirical context in which foundational concepts of institutional theory have been developed. They constitute highly institutionalized settings that foster strong forms of embeddedness and exert powerful pressures on organizational

operations (Greenwood & Suddaby, 2006). Thus, this study is not interested in international professional work *per se*, but focuses on work that spans multiple professional or institutional contexts. International PSFs that nowadays densely populate the business landscape regularly operate at and across the boundaries of normative settings. They represent an inherently interesting and practically relevant setting to research, but particularly promise to provide deep insights into the reciprocity of institutions and work.

In the light of current gaps in the institutionalist literature, this research interest has been cast into the more theoretically relevant research question: How do individual actors in boundary-bridging positions negotiate institutional practices and logics at work? This question relocates the exploration of institutional contradictions, practices and logics from the field-level to the micro-level of individual practical work. Thereby, it directly contributes to current debates on the role of individual interest and agency for institutional persistence and change.

Specifically, the study argues for a practice-based institutional theory that re-connects institutional arguments to everyday activity, rather than organizational or managerial action. This new perspective contributes to ongoing efforts to resolve the “paradox of embedded agency” (e.g. Holm, 1995) and directly builds on recent concepts of “institutional contradictions” (Seo & Creed, 2002), “boundary bridging” (Greenwood & Suddaby, 2006), and “institutional work” (Lawrence & Suddaby, 2006). It extends these existing arguments by drawing on illuminating constructs from theories of practice (Barnes, 2001; Bourdieu, 1977, 1990; de Certeau, 1984; Giddens, 1984; Schatzki et al., 2001) and more specifically situated change (Feldman, 2003; Feldman & Pentland, 2003; Orlikowski, 1996, 2000). While the latter have been developed in the context of work routines and organizational change, they appear equally helpful for discussions of how institutional rather than organizational structures are constituted in practical work. In contrast to existing accounts of field-level change, the empirical and conceptual focus shifts away from macro-level actors with coercive or normative rule-making authority and emphasizes the practical and political struggles through which micro-level actors collectively constitute the practices and logics that govern their behaviour.

A practice-based perspective on institutions responds to institutionalists' current lack of attention to 'work' as actors' everyday occupational tasks and activities. It unpacks the micro-practices and –politics by which actors negotiate institutional contradictions at work, focuses on the micro-level constitution of macro-level institutions in situated praxis, and thereby illustrates the reciprocity of institutions and work.

1.3 Approach to the research question

The research question is addressed with single-case study data from a global law firm's banking group in England and Germany. Nested within an overarching grounded theory-building strategy, this methodology is ontologically and epistemologically consistent with the research question and its inductive theory-building logic. It produces data that are detailed and vivid, yet purposively sampled to allow their theoretical generalization into a grounded theory of international professional work and its institutional implications.

The case is set in the context of legal business. Law is a highly institutionalized environment, characterized by dense sets of norms and strong notions of appropriateness, which provides rich opportunities for exploring institutional stability and change in mature fields. Choosing a global law firm as organizational context for the case grants insights into an elite, international setting in which embedded actors operate across contradictory institutional arrangements. Given the globalization of finance, banking lawyers are often involved in such cross-border work that exposes them to alternative institutional arrangements so that their group provides a particularly rich case for exploring the interplay of institutions and work. It represents a tension-ridden context whose institutions are *at risk* of change and which thereby provides opportunities for observing the micro-practices and –politics through which institutional persistence or change are negotiated. English and German offices as representatives of contradictory common-law and civil-law regimes have been chosen as embedded sub-cases that maximize differences between the institutional arrangements being bridged.

Data are collected through observations, interviews and documentary evidence from the case setting as well as its organizational and institutional context. This multi-method approach provides a coherent and vivid image of banking lawyers' working practices and their potential institutional implications. Observations capture impressions of daily practice and interviews engage observation participants in the interpretation and articulation of the observed activities to uncover their implicit meanings and underlying logics. Documentary evidence helps triangulate findings across data sources and connects organizational structures and practices to the broader institutional environment.

Data analysis aims for analytical, rather than statistical generalization. It focuses on expanding empirical evidence into a mid-range theory of international professional work and its institutional implications. Analytical generalization relies on a process of gradual abstraction, in which data and existing theory are constantly compared to discover patterns of data that suggest new theoretical concepts, grounded in and abstracted from participants' real-life experience. As is typical of grounded theory-building, these ongoing analytical efforts pervade the entire research process and make it an inherently flexible and iterative endeavour. In the interest of clarity, this thesis is nonetheless structured in the orthodox, linear fashion, but highlights where this does not accurately reflect the flexibility of the actual research process.

1.4 Document outline

The remainder of the document is organized as follows. Chapter two reviews the institutionalist literature to which this study aims to contribute. It identifies five themes of theory development which are characterized by different core arguments and concepts, different empirical foci of research, and distinct institutional ontologies that reflect the agentic 'swing' in the institutionalist thought of the time. This approach traces how the paradox of embedded agency has its roots in early institutionalists' over-emphasis on ethnomethodological concepts and institutional stability. It demonstrates how various approaches have recently tried to correct this imbalance and how they still leave considerable blind spots in the institutionalist understanding of the interplay between agency and structure, work and institutions.

Chapter three introduces theories of practice and situated change and the illuminating constructs that institutional scholars can borrow to shed new light on currently under-theorized aspects of their theory. It describes how these concepts have been developed to explain organizational change and demonstrates how arguments of situated change can be extended to theorize the institutional repercussions of practical work.

Chapter four traces the genesis of the conceptual framework for this study. Given the inductive and flexible nature of grounded research, it is both input and outcome of the research process. The chapter describes the general research interest that motivated this study, summarizes the gaps and calls for research in current institutional literature, and uses them to channel the broader interest into a specific research question of theoretical relevance. It then outlines potential theoretical contributions from exploring this research question, explains how these contributions rest on a combination of institutional and practice theoretical arguments and finally presents the resulting conceptual framework.

Chapter five elaborates the methodology for this study. It explains both the underlying paradigm and the actual process of how empirical research was conducted. Specifically, different sections justify the choice of a grounded, case study-based research strategy and explain the sampling of the case study setting. They describe the choice and execution of data collection methods and make transparent how these data have been analyzed to distil abstract concepts that illuminate the reciprocity of institutions and work.

Chapter six presents the case study data, elaborating the institutional ramifications and everyday activities involved in doing deals in a global law firm. The first section describes the institutional and commercial context in which banking lawyers operate, describing the legal systems, professional structures, legal training regimes and market conditions in England and Germany. The second section ‘zooms in’ on banking lawyers’ practical work, providing rich descriptions of lawyers’ transactional work, the actors and activities it involves, and how it regularly requires cross-border collaboration. The third section delves deeper into the specific practices required

to produce seamless cross-border services and how the concomitant discussions entail the renegotiation of legal concepts and institutional practices. Finally, the fourth section summarizes the practical and political implications of cross-border work from a respondent's perspective and thereby leads to more theoretical discussions of how everyday work pressures motivate and enable institutional change.

Chapter seven generates a closer dialogue between data and existing theory. It interprets case study observations in the light of current institutionalist debates and draws on practice-theoretical insights to demonstrate the role of micro-level practical work in the constitution of macro-level institutions. The first section details how banking lawyers are essentially in the business of institutional enactment. In their cross-border work they manage the meaning and legitimacy of legal constructs and thereby influence how they are locally enacted. The second section suggests that from a practice-theoretical perspective the generative mechanism of institutional stability and change may be more accurately described as institutional coping rather than institutional design, as actors adapt their institutionalized practices to pressures of everyday task fulfilment. The third section interprets negotiations between lawyers from different jurisdictions as dialectical struggles between proponents of antithetical institutional arrangements. It unpacks the micro-practices and micro-politics by which institutional resources are mobilized and practices synthesized. Finally, the fourth section argues that those logics which are successfully invoked to legitimize new practices, are more regularly instantiated in praxis and thereby become more dominant in the mix of logics available in the field. Hence, as institutional practices are being synthesized, their underlying logics may shift, suggesting that both material and symbolic structures can be constituted in micro-level praxis.

Chapter eight concludes this study. It extends the discussion by abstracting general arguments about the reciprocity of institutions and work that specifically address the theoretical gaps identified in the conceptual framework. The final sections discuss the limitations of this study and outline an agenda for future research.