

**Managing institutional difference in TNCs through training academies:
Italian lawyers in transnational law firms and their institutionalised practices**

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Abstract

Through analysis of original empirical material, this paper examines the way English transnational law firms use in-house training programmes to manage the geographically heterogeneous effects of institutional contexts on the practices of lawyers. The contribution of the paper is twofold. First the paper highlights the effects of heterogeneous institutional contexts on transnational professional service firms, a relatively understudied issue. Specifically the paper provides empirical analysis of how the specificities of the Italian institutional context affect the activities of English legal PSFs in Milan. This reveals the intimate connection between varieties of capitalisms, place-specific workplace cultures and practices, and the institution-related challenges transnational PSFs and TNCs more generally face. Detailed empirical archaeologies exploring the direct links between institutions and practices are, therefore, highlighted as being an important part of research on the effects of institutions on TNCs. Second, the paper analyses the way institutionally generated differences at the level of work practices are managed in transnational law firms through worldwide training programmes designed to ‘govern’ the practices of workers in different parts of the TNC’s network. This highlights the importance of studying attempts to manage institutional heterogeneity at the level of workplace practices, something often missed in existing meso-scale studies of TNCs’ governance structures.

Introduction

As part of empirical and theoretical interest in economic globalisation, there has been widespread study of how transnational corporations (TNCs) operate as transnational social communities (Faulconbridge, 2007; Jones, 2008; Morgan, 2001a). In particular it has been suggested that one of the main competitive advantages of TNCs is their ability to engage in organizational learning that exploits social communities within firms and inter-subsidary collaborations (see in particular Bartlett and Ghoshal [1998] on the transnational organisational form). Such learning has been shown, with varying degrees of success, to allow TNCs to gain advantage over ‘local’ competitors in host countries through the transfer and implementation of ‘best practices’ as well as through the production of new competences, knowledges and products/services (see for example Currah and Wrigley, 2004; Faulconbridge, 2007). However, it has also been shown that heterogeneous institutional contexts associated with national business systems (Whitley, 1998) and varieties of capitalism (Hall and Soskice, 2001) can impede organizational learning and the seamless operation of TNCs more generally. In particular, the difficulties of implementing home-country business models and best practices in alien host-country institutional contexts have been shown to cause organizational fragmentation and the need for the adaptation and/or hybridisation of best practices (see Wrigley et al., 2005), as well as the negotiation of complex micro-political tensions as home and host-country actors come into conflict over work cultures and systems (Ferner et al., 2006; Morgan, 2001b).

This paper develops debates about the institutional hurdles to organizational learning and the operation of TNCs as integrated transnational social communities in two main ways. First, the paper examines the effects of heterogeneous institutional contexts on professional service firms (PSFs), and specifically legal PSFs. Existing studies, such as those by Gertler (2004) and Whitley (2001), have provided important insights into the way manufacturing firms negotiate the varieties of capitalism. But few studies have considered how the peculiar organizational contexts of transnational PSFs determine both the effects of and responses to institutional difference (for exceptions see Faulconbridge, 2008; Ferner et al., 2006; Morgan and Quack, 2005). In this paper we show how for legal PSFs the main challenge of institutional diversity is the generation of place-specific work *practices*. Consequently, responses to diversity take the form of worldwide training programmes designed to ‘govern’ the practices of workers in different parts of the TNC’s network and align them with a ‘one firm’ model of practice. Such practice-level management responses have received limited attention in existing work on the effects of institutions on TNCs. The second contribution of the paper is to provide original empirical analysis of how Italian institutional contexts affect transnational legal PSFs. To date studies have tended to focus on how English or US TNCs are affected by iconic, if not somewhat problematic, divides associated with liberal/coordinated (England and USA/Germany) markets (see for example Morgan and Quack, 2005). Yet with a few exceptions (e.g. Culpepper, 2007; Trigilia and Burrioni, 2009) the effects of institutions on the activities of TNCs in Italy have received little attention. In part this can be explained by the relatively low numbers of manufacturing TNCs operating in Italy. However, in the case of transnational PSFs, and legal PSFs in particular, Italy has been a key node in organizational networks for a number of years. This paper, therefore, considers the nature and causes of the challenges faced by English transnational

law firms when seeking to incorporate Italian subsidiaries into integrated organizational communities. This reveals the intimate connection between Italy-specific variegated capitalisms (Brenner et al., 2010), place-specific workplace cultures and practices, the challenges faced by TNCs and their responses. Detailed empirical archaeologies exploring links between institutions, cultures and practice are, therefore, proposed as a way of making valuable contributions to debates about the effects of institutions on TNCs and the management of these effects.

The rest of the paper develops these points over four further sections. The next section reviews literatures on the effects of institutions on TNCs, stressing the link between place-specific capitalisms and the workplace practices they produce. Consideration is then given to the globalization of law firms, their Italian operations and the implications of Italian institutions for the strategy and operation of English transnational legal professional service firms. The following section analyses the way global training programmes have been deployed by English transnational law firms as part of attempts to overcome the challenges posed by institutional legacies and to facilitate the adoption of firms' best practices. The conclusion outlines the implications of theorising both the link between institutions and practices, and the role of corporate training programmes in 'governing' workplace practices, for understanding of the effects of institutions on the operation of TNCs.

TNCs, geographically variegated institutional systems and the effects on workplace practices

The work of Whitley (2001) on national business systems draws attention to how manufacturing firms and their workers develop nationally-specific organizational forms because of the ‘functional’ influence of the institutional environment in which they operate. Specifically, institutions – defined as formal, legally enforced regulations *and* informal norms and customs - in Whitley’s approach are assumed to create structural opportunities or barriers that determine the organizational form of firms. Thus, Whitley (2001: 39) identifies three contrasting institutional environments: particularistic, collaborative and arm’s length and notes how these “three types of business environment, in particular, encourage quite different sorts of firms to develop and dominate”

For Gertler (2004), analyses of the effects of institutions on TNCs cannot, however, remain solely at the level of the organizational form of firms. Instead, analyses must also recognise the influence on individual economic actors, their social and cultural dispositions and ultimately their workplace *practices*. As Gertler (2004, 7-8) argues, institutions “define the system of rules that shape the attitudes, values, and expectations of individual economic actors”. Gertler (2004, 8) goes on to note that “actors may or may not be conscious of the act that they espouse and are motivated by these attitudes and values, conventions and habits, but they are unlikely to be aware of the very real impact institutions have had in shaping them”. Hence analyses must recognise the connections between “institutions at the societal level, attitudes and values (often shared by

individuals within society, but ultimately experiences at the level of the individual), and economic behaviour as expressed in the industrial practices of firms and the individuals that comprise them”. Such an approach also forms the basis on the proposition by Jones (2008) that the social and cultural characteristics of all workers’ practices are defined by their entanglement in geographically variable institutional environments. Morgan (2001b) likewise argues that the main impacts of institutional heterogeneity on TNCs is at the social level, suggesting specifically that micro-political tensions emerge because employees in each subsidiary are wedded to different, institutionally generated, social norms and practices. For Morgan (2001b: 9), such practice-level variations are more important than the structural variations that Whitley (2001) alludes to and mean that “Model-building and the development of theory from these presuppositions have little to say about the social embeddedness of rationality and the contingent and precarious nature of organizational order [and is]...unable to address systematically the social determinants of organizational structures, the political nature of decision-making, the irrationality of organizations, and the social construction of markets. It leaves unexamined or unproblematic a huge part of the social life of firms” (on such points see also Ferner et al., 2006).

Here we suggest that the connections between institutions, attitudes and values – i.e., cultures of work - and everyday practices are particularly important when considering the effects of institutions on PSFs. As Kärreman and Alvesson (2009, 1117) suggest, “management in knowledge intensive firms tends to pay more attention to the regulation of ideas, beliefs, values and identities of employees than most other organizations. The subjectivity of employees becomes highly central. To produce individuals with the right mindset and motivation becomes a

more vital part of the total apparatus of control mechanisms and practices than is the case for other organizations”. In particular it is the way the employees of transnational PSFs set about (a) working with colleagues in other offices and (b) the way they deliver services to clients that is key to the success of a firm (on which see Beaverstock, 2004; Jones, 2005, 2007). Both of these forms of workplace practice are, we contend, culturally and socially shaped by institutional influences and, as a result, challenge the seamless operation of transnational PSFs. In the rest of the paper we, therefore, attempt to understand how Italian institutional contexts produce lawyers with place-specific everyday work practices and how English transnational law firms attempt to overcome constraints generated by differences between the firms’ models of best practice and the practices espoused by Italian lawyers.

Law firms, globalization and institutions

Unlike retailers and other intensely embedded (service) firms which have been shown to respond to the challenges created by institutional difference by adapting home-country practices in alien host-country contexts, and even by changing home-country best practices as a result of learnings from different institutional settings (see Coe and Wrigley, 2007; Wrigley et al., 2005), the *raison d’être* of transnational law firms (see Table 1) is the development of competitive advantage by providing a *globally aligned, seamless and consistent service* worldwide to all clients (Beaverstock et al., 1999). As such, transnational law firms have sought to reproduce faithfully their home-country best practices – i.e., ways of advising clients, managing the firm on a day-to-day basis etc., something explored in more detail below - when establishing offices in overseas

jurisdictions. The rationale for this ‘one-firm’ strategy based on standardization and the export of home country best practices is twofold. First, the firms’ most profitable clients originate from their home jurisdictions, i.e., England and the USA. Transnational law firms were primarily born to service the global needs of home-country TNCs who, as they expand their own international operations, require consistent and predictable advisory services. Second, the dominance of English and US law in the structuring of cross-border commercial activities has further encouraged English and US law firms to export their home-country norms to overseas offices (see Quack, 2007). Lawyers in transnational law firms are regularly involved in providing legal advice on financing and international merger and acquisition deals that although not involving English or US clients are still structured around English or US law. Firms, therefore, believe it is vital that all their lawyers can work as part of international teams following Anglo-Saxon norms of legal practice. Thus, in effect, the historical origins of transnational law firms and the hegemony of the English and US legal system in the world of commerce result in the home-country practices of English and US lawyers being the dominant template for the organization and operation of firms, even if this creates tensions when servicing local clients in host jurisdictions (see Faulconbridge, 2007; Faulconbridge et al., 2009).

National institutional systems do, however, generate significant hurdles to the successful reproduction and implementation of home country best practices and threaten to undermine the ‘one-firm’ strategy and the quest for seamless global services. For example, Morgan and Quack (2005) show that the English institutional context favours the rise of large law firms and the development of entrepreneurial and business orientated approaches to legal practice. In contrast,

in Germany local institutions have tended to produce smaller law firms and lawyers that act as civil servants, scientists of the law and independent (rather than business orientated) practitioners. Attempts by transnational law firms to export English understandings of legal practice to other institutional contexts such as Germany have, therefore, often led to conflict, negotiation and greater degrees of compromise, adaptation and hybridisation in best practices than firms consider ideal (see Faulconbridge, 2008; Flood, 1996). This in many ways reflects the experiences of retail TNCs (see for example Christopherson [2007] on the challenges faced by Walmart) and has led to some degree of reappraisal of the ‘one-firm’ model whereby home-country practices are reproduced faithfully worldwide.

To better elucidate the way in which local institutions act as a barrier to transnational law firms we draw on empirical research, completed during 2009, which examined the operations of English transnational law firms in Italy and their attempts to manage such institutional heterogeneity and its effects through the creation of training academies. These academies are designed to socialize Italian lawyers in the firms’ best practices and in doing so overcome resistance to their implementation in Milan.

English transnational law firms in Milan

Table 2 provides more details of the activities of the five largest English transnational law firms in Italy. Note how all firms originally entered Italy through some form of alliance with an already established studio legale (law firm). This means all of the above firms inherited a cohort

of Italian lawyers with local understanding of legal cultures and practices. We focus on English firms because our research suggests these firms have developed some of the most advanced strategies designed to overcome institutional hurdles and to progress towards a ‘one firm’ model. We badge these firms as English because, whilst they have all undergone several mergers, (in the case of Freshfields leading to the change of the name of the firm in the 1990s after a two way merger with the German outfits Deringer Tessin and Bruckhaus Westrick Stegemann), these mergers have predominantly involved the English firms absorbing their foreign counterparts and gradually imposing their business models on the acquired offices. Our rationale for focussing on Italy and the Milan offices of firms is that, first, the effects of Italian institutions on the activities of transnational law firms have not been studied to date. Second, as the work of Culpepper (2007) and Trigilia and Burroni (2009) suggests, Italy also provides an example of a context in which differences between the home-country institutions of Anglo-Saxon (legal) TNCs and host-country institutions are particularly pronounced. Finally, as far as English law firms are concerned, managing the effects of such institutional heterogeneity on the practices of lawyers working in their Italian offices is of great importance. Whilst all transnational law firms would like to claim to play a major role in the Italian domestic legal market (see Table 2), our research suggests that in reality they are relegated to a peripheral role for two main reasons. First, the economics of the firms and the large overheads associated with running a multi-office network make the hourly rates of transnational firms’ lawyers uncompetitive when compared to domestic rivals. Second, from day one English firms have prioritized the delivery by their Italian offices of English style legal services designed to meet the needs of their international client base. Italian clients have, however, a very different understanding of the way they should be served by lawyers and often view the size and practices of English firms with suspicion and as an indicator

of a depersonalized service, rather than as a competitive advantage (Micelotta, 2010). Home country and international clients are, therefore, the main source of work for English firms operating in Italy. And these clients expect seamless, globally consistent services based around Anglo-Saxon understandings, norms and standards of legal practice.

[insert table 2]

The analysis below is based on a series of semi-structured interviews with: individuals in English transnational law firms in London (21) and Milan (18 interviews) holding a range of positions including office managing partner, partner, head of training, trainer, senior associate, associate and trainee (i.e. all sections of the hierarchy in law firms); regulators and representatives of professional associations (3 in England and 4 in Italy), law schools (11 in England and 3 in Italy) and freelance providers of training services to law firms (2 in England and 1 in Italy). In London we completed interviews at all of the firms listed in Table 2 whilst in Milan we focussed on two firms with particularly well-developed training academy programmes that help manage the effects of institutions on lawyers' practices. Nonetheless, whilst our data on the difficulties faced in Italy relates to the experiences of two firms, our wider argument about both the causes and effects of institutional heterogeneity, and about the attempts to manage such institutional differences, are relevant to all of the firms in Table 2. We confirmed this relevance through interviews with London-based partners and heads of training in the firms not studied directly in Milan. All interviews focussed on 'local' institutional influences on lawyers' work and the nature of organizational learning in the firms and the role of training programs in attempts to reframe

lawyers' practices. Interviews were recorded, transcribed and coded to identify recurrent themes relevant to the topic of analysis. All quotations provided below are anonymised to protect the identity of the individual and the firm they represent, something agreed with all interviewees at the time of the research.

Institutions, identities and practices in England and Milan

In this section we focus on the distinctive characteristics of Italian legal institutions that lead to lawyers developing normalised legal practices that are significantly different to those of English lawyers. Following a well established approach to analysing professional occupations (Abel, 1988; Faulconbridge and Muzio, 2007) we structure this analysis around consideration of key institutional factors affecting the production of professional producers (rules regulating qualification into a profession) and the production by professional producers (rules governing the conduct, behaviour and practice of qualified professionals). Taken together these two institutional pillars of the legal profession generate a series of influences which frame the practices of lawyers and which explain the existence and persistence of spatially heterogeneous varieties of professionalism and legal practice.

Qualifying into the Italian legal profession – i.e. the system of regulation of production of producers – is a lengthier, more prescriptive and regulated process than in England. Historically,

in Italy all formal teaching has been located within the university system, in contrast to England where legal education originated outside the university in the Inns of Court under the control of the profession itself. These inherited legacies have led to a more academic approach to legal education in Italy in contrast to the more vocational approach followed in England (Abel, 1988; Malatesta, 2006). Furthermore, whereas in England a graduate of any subject can become a lawyer on completion of a one year conversion course (the Graduate Diploma in Law), a law degree is the only entry route in the Italian legal profession. The Italian approach to legal education is, of course, also steeped in and in many ways required by Italy's civil law tradition with its emphasis on formal rationality, coherence and predictability (Faulconbridge et al., 2008). Law is viewed as a self contained system of interlocking quasi-scientific pronouncements, a "purely analytical, intellectual construct, a sealed system of logically interconnected propositions impermeable to the economic pressures of the business world" (Osiel, 1990: 1037). This contrasts with a the common law tradition of England and Wales where the doctrinal focus on the historically contingent decisions of case law (precedents) has always emphasized interpretation, flexibility, and the development of legal instruments to support client interests, thus, positioning legal practice as a more innovative and entrepreneurial vocation (Flood, 2007).

On completing a law degree in Italy prospective lawyers undergo a two year training period, working as a praticanti with a qualified lawyer. Praticanti are expected by their professional association, who regulates this period of training, to have a full exposure to criminal, civil and administrative law (all of which are covered in their final state exam) and to attend at least 20 court proceedings per semester. Although, the professional association stipulates that practice

periods should attract an adequate financial compensation, praticanti are (outside of the largest firms) largely unpaid and there is certainly no minimum salary as required in England for trainees. However, in return for their unpaid labour, praticanti are often awarded a share of any new work they procure, generating through experience an understanding of legal practice as independent, autonomous and individualist in orientation, again something that contrasts starkly with the two year English traineeship system which ultimately leads to individuals being socialized as collaborative members of firms.

The praticantato leads to the Esame di Qualificazione ed Abilitazione Forense (State exam) which in a country where there is an oversupply of lawyers is the final and perhaps most significant barrier to accessing the profession. In heavily subscribed jurisdictions such as Rome and Milan (where most transnational firms are based) failure rates regularly exceed 70 percent. The exam is roughly a two year process comprising of a written component in year one and oral component in year two and has a generalist and technical focus as applicants are expected to provide an opinion on both a criminal and civil cases and to demonstrate mastery of the relevant codes and court procedures. The examination stage reinforces, therefore, understandings that legal practice involves being a knowledgeable and autonomous individual who possess a systematic and technically detailed understanding of legal science (law in Italy is often referred to as a science). In contrast, in England there is no final state exam but admission to the profession impinges on the ability to secure a training contract followed by an employment position with an existing practice or in house legal department (qualified solicitors must be employed for three years before they can set on their own). In this context, the ability of an

individual to provide advice to clients and work effectively as part of a larger unit, rather than their theoretical understanding of the technicalities of the law, will be of paramount importance. Thus, unlike in Italy, the peculiar institutions regulating the production of lawyers in the English legal profession engrain collaborative, firm-based service focused logics in everyday practices.

Reinforcing the trends noted above, the regulatory framework governing the production by producers in the Italian legal profession implicitly, and at times explicitly, treats the individual sole practitioner as the key reference point and norm for legal practice. Indeed until the late 1990s and the impact of EU legislation, law firms were if not forbidden then severely curtailed and restricted by legislation which was originally designed under the fascist regime to exclude Jews from legal practice (L.1815 1939 – See Berlinguer 2005). Such norms were carried through into the post-fascist regime under the new guise of their role in safeguarding the lawyer-client privilege and the independence (moral and economic) of the profession. In this context, professional regulations and deontological norms institutionalized an individual link between practitioners and clients, with clients instructing individual professionals rather than firms (Berlinguer, 2005). Furthermore, as a consequence of this emphasis on economic independence, salaried employment is not allowed in the Italian legal profession, whether located in the in-house legal department of a corporation or within a post-1990s studio legale (law firm). Instead lawyers can sub-contract their services as independent professionals to a firm, leading to the development of quasi-employment relationships. This lack of legal employment status, together with discourses surrounding the individualized nature of client relationships and the tendency of clients to identify with their lawyer rather than with the firm's brand, have a powerful influence

on lawyers' understandings of their role as client advisors and lead to practices that prioritise the maintenance of an individual's own personal client base, thus engendering little loyalty to a firm. This is very different to the English context where law firms have long been permitted, where limited liability partnership structures exist, and where the concept of a client belonging to a firm has become normalized, thus leading to the production of lawyers who understand their role as providers of value adding legal solutions to clients as part of multi-disciplinary legal teams. Indeed, entity regulation, whereby firms and their work instead of individual lawyers are regulated, is being trialed in England at the time of writing.

The Italian institutional environment exercises, then, a range of regulatory (by banning certain practices and organizational forms) and normative pressures (by producing lawyers with specific understandings of their roles and practices) that lead to lawyers with particular place-specific understandings of their role as lawyers and of normalized legal practice. Specifically, as Figure 1 reveals, the doctrinal foundations of Italian law, the dominant role of the universities in the qualification system, the particular discourses and experiences individuals are exposed to during their time at university, the experience of the often unwaged praticantato which encourages trainees to develop an individual client base, the demanding nature of the state exam and its focus on the mastery of the codes, and the individualist and craft-like understanding of legal practice propagated in the official pronouncements and representations by the professional associations, together generate Italian lawyers with understandings of their professional role and normal professional practices that contrast starkly with those of English lawyers and English transnational law firms. Consequently, the Italian institutional context potentially constrains

transnational law firms, limiting their ability to reproduce their commercial strategies and practices across jurisdictions, thus, undermining the seamless service ideal which underpins their business model. In the remainder of the paper we examine how the effects of the Italy-specific practices produced by the institutional systems outlined in Figure 1 are managed by English transnational law firms through their hereto unstudied training academies.

[Insert Figure 1]

Managing institutional influences on practice in Milan – the role of training academies

English transnational law firms have developed extensive in-house training programs designed to facilitate organizational learning and in particular to allow the exporting of home-country legal practices to overseas jurisdictions as part of attempts to ensure clients receive consistent services worldwide. Programmes are often badged as ‘academies’ or ‘universities’ and allow lawyers to gain a corporate qualification, sometimes referred to as a diploma, that confirms their completion of the training program. Training programs are delivered: by trainers who travel from office-to-office to deliver courses; by ‘local’ staff who implement globally agreed programs that they have been trained to deliver, usually by personnel in the home-country of the firm; and most importantly through global and regional (e.g. pan-European) events when lawyers from several offices travel to one location for a period of time, ranging from one day to a week. The structure and ethos of such programmes is captured nicely by the following comments from one global head of training:

“we put together were a series called the [firm x Diploma]...the idea of the Diploma is that if you are in corporate, wherever you are in the world, you will still take the Diploma. So it transcends jurisdictions and the design of the courses I think is really clever, because we’ve got a local technical core, a local technical core which is local training for each of the jurisdictions and we’ve got a global core, so we’ve got a stream of training which is global which works for any office wherever they are and then we’ve got a global skills core”.

(9, Global head of training, English firm)

Figure 2 outlines the training program of one English transnational law firm with elements of the program mapping onto the different stages of legal career, from being a new recruit through to joining the partnership. Because legal regimes are national in scope and lawyers in each office must be trained, have knowledge of and be able to negotiate the peculiarities of the legal systems in the country they work in, programs are less useful in relation to technical legal knowledges and more useful in relation to what might be called service delivery best practices. Best practices, here, relate not just to routinised ways of working, for example using standard forms and protocols when executing transactions, but also to the adoption of preferred and normalised attitudes and approaches to legal practice which are based on home country understandings. In Figure 2 we highlight in italics aspects of the training program which are designed to socialize and train recruits into home-country work cultures and best practices. Table 3 offers further

explanation of the nature of this best practice training. This training encourages lawyers throughout the world to adopt the firm's best practices, regardless of the normalised practices associated with the institutional contexts in which they operate; even, when as in the case of Italy, these are significantly different from the host-country norms of practice. Indeed, the aims and objectives laid out in one firm's training documentation attest to the importance of training in shaping lawyers' practices, stating that training should:

- Allow the firm to develop a cohort of lawyers who have a consistent approach to legal practice
- Ensure lawyers know their colleagues worldwide and share common understandings of how to meet clients' needs
- Develop globally minded, diverse and flexible people

(Source: Adapted from documents collected during fieldwork)

[Insert Figure 2]

But what techniques are used to ensure training programs stand the best chance of overcoming the negative effects of geographically variable institutions, such as those outlined in Figure 1, on the implementation of home-country best practices? I.e., how do English law firms use academies to overcome the effects of the Italian institutional context on lawyers' practices so that home-country practices can be adopted as part of attempts to enact seamless service delivery strategies?

[Insert Figure 2 and Table 3]

Changing institutionalized practice through training

In English transnational law firms training events are used to enact three strategies that are designed to promote the best practices of the firm. First, training events allow Italian lawyers to come together for a period of time and listen to and learn from training personnel and senior partners of the firm about the types of day-to-day practices lawyers are expected to display. As commented by one training partner, such initiatives are endorsed at the highest level in the firm, “[Person x] our managing partner is committed to helping people, you know, if you like, be induced into the programme as quickly as possible. So he’ll talk about the strategy, he’ll talk about the vision, he’ll talk about what his hopes and fears are, but they also get a sense of what it’s like to work here as well” (7). As such, training events reflect in many ways the identity regulation strategies that Alvesson and Willmott (2002) suggest are crucial in the management of knowledge intensive and professional workers. For Alvesson and Willmott identity regulation is “the more or less intentional effects of social practices upon processes of identity construction and reconstruction” (2002: 625), with identity being defined as an understanding of ‘who I am and how I should act’. In particular, Alvesson and Willmott suggest that through discursive processes of normalisation and subjectification (Foucault, 1980), individuals learn what it means to ‘be professional’ in the context of a particular professional service firm, thus internalizing understandings of ‘who professionals are and how they should act’ because of the way discourses shape subjectivities and ultimately the types of behavior displayed by an individual.

We claim that such forms of governmentality are also enacted through training academies but with the intention of shaping lawyers' practices so that they reflect the best practices of the firm. Exposure to discourses in formal presentations and informal conversations between lawyers helps govern understandings of the type of values and practices the firm considers appropriate and inappropriate. By defining what is deemed acceptable and unacceptable, praising those displaying preferred practices and othering alterity, those running training programmes seek to shape the practices of Italian lawyers and subvert Italian institutional influences that might promote what are considered to be inappropriate practices.¹

Most important in this respect are the global or regional events which enable lawyers at the same stage in their career but in different worldwide offices to meet in person. In particular, as one trainer noted, in the first instance global and regional training events allow lawyers to:

“meet their peers in other offices and hear that, ‘I may be struggling with this in London, but actually it’s no different in Amsterdam, Frankfurt, um New York’. We don’t apologies for that, there’ll be, there’s something very powerful in getting a bunch of peers together for that time”.

(4, Training lawyer, English firm)

[insert figure 1]

Indeed, such events are viewed as being so important that they are one of the few forms of business travel that was not scaled back as a result of the recession which began in 2008. And firms have also invested significantly over recent years in the development of complex simulations that can be used as part of global or regional events. In these simulations trainees perform the role of lawyers in a specific deal and senior lawyers, or in some cases training consultants or even actors, play the role of the client. Simulations allow lawyers to experience the everyday working practices of lawyers from different offices throughout the firm with common situations such as client meetings, inter-office team working etc., being simulated. This allows individuals to learn about how their approach to being a lawyer fits with or differs from that of other lawyers working for the firm and particularly those from the home-country jurisdiction. As one training partner put it, simulations encourage:

“people to mix together and do their own sort of more informal learning if you like and sort of build on to that when they’re back in the office. ‘The Dealin Action’, which is a mock up of a deal, and they each have a coach who follows them through this course, the course lasts between three and four days depending on what the deal is, and they literally have to kind of run the deal as if they would, they’ll be running meetings with clients, people playing clients, they’ll be briefing partners, so that’s a very interactive course that’s a combination of technical and developmental” (5, Global training partner, English firm).

For one junior lawyer who had experienced such simulations, the benefits in terms of self reflection were described as follows:

“...we had the chance be four in a room with a partner, so that the partner could explain to us ways of doing things...they gave us the opportunity to explain if something was absolutely different in the civil law respect to the common law and learn about why there are differences”

(55, Trainee, English firm's Milan office)

However, observation and participation are most important in shaping the practices of lawyers when coupled to discursive feedback provided by those running a training event and, in particular, feedback from the senior lawyers involved in a simulation. Feedback takes many forms but most important are the one-to-one feedback sessions where the practices, values and attitudes of a lawyer are scrutinised, questioned, critiqued or commended as part of a deliberate attempt to encourage the adoption of particular approaches. Such feedback may also involve comparison of the practices of the lawyer in question with those of other lawyers present at the training event, again allowing the othering of practices deemed inappropriate. As one independent provider of legal training to English and US firms commented:

“We [the training firm] have an Editorial Board [of lawyers] of forty two and the reason it’s so big is that we want, at each event, around eight or nine or ten of them to actually come to the event. So they sit on the tables with the delegates and they work the case study exercises with the delegates. So in that role they are immediately acting effectively as coaching and mentoring facilitators. But delegates love the fact that this is a real lawyer sat with me for two days chatting about how we should manage this case scenario...I see principally the role as being a sounding board. So somebody tells you [the editorial layer] what they think and you don’t offer your own opinion, you just challenge their assumptions and you keep challenging their assumptions until they become more robust in their opinion, or not as the case may be”.

(14, provider of training simulations to transnational law firms)

And the governmental role of training academies is also further reinforced by discourses in the form of performance reviews and promotion procedures that explicitly cite and assess the practices promoted by the academies. A number of the firms studied also used simulations as part of assessment processes, especially when individuals seek promotion to the position of senior associate or partner. As part of these assessments individuals are offered feedback about performance and the likelihood of promotion based on an evaluation of the practices displayed in day-to-day work, at training events and as part of any simulations they participated in. As one interviewee described:

“We have a development centre which is a global looking at all the lawyers at that level [senior associate looking to become partner] across the world. We put them on a day and a half, two-day, development centre, we put them through some simulations and they get an objective assessment of their current level of business skills against a future benchmark...So we can say in two years time, if you want to be this, you’ve got to do these things to improve your skills...and then hopefully, about a year or so later, you are chosen as a partner candidate and then you go into the partnership selection process”.

(1, Global head of human resources, English firm)

Overcoming micro-political tensions

Table 4 provides examples of the responses of junior lawyers working in the Italian offices of English transnational law firms to training and assessment designed to promote particular ‘English’ practices. As the quotations suggest, training helps Italian lawyers understand the ‘preferred’ home-country practices of the firms they work for and how these practices may differ from those normalized in the Italian institutional context. As such, the governmental effect of training academies on the subjectivities of lawyers appears at least partially successful. However, awareness of differences does not necessarily result in Italian lawyers actually changing their practices. The work performed on lawyers’ practices by training often causes conflicts because

of the direct contradictions that exist between the practices taken for granted in the Italian institutional context and those promoted by English transnational law firms. For example, the quotation below summarises the reactions of several interviewees in Italy to the downplaying of technical competency and the importance of mastery of legal doctrine and procedures within English firms' training programs (in particular within the client focused advice' component of such programmes - see Table 3):

“One of the major differences we have experienced over the years is that most English lawyers, the trainees have very little knowledge of the law. This applies to all firms because your system is different, it does not necessarily need to take three or four years of law to become a lawyer contrary to what you do here... One company are thinking about providing a six month version [of the compulsory law degree] so, it is potentially after not having done a law degree, you be a lawyer after 18 months...English lawyers they find themselves lawyers but sometimes, their concepts are a bit nebulous...Honestly I believe our system [in Italy] has many failings, many shortfalls, but I feel more confident uh, in dealing with one of my youngsters that you know a trainee or youngster from the UK”.

(38, managing partner, Milan office, English firm)

[insert table 4]

The ideas promoted in the ‘client focused advice’ elements of training programs were, then, a particularly significant source of conflict because, as Figure 1 reveals, the emphasis in English legal practice on providing simplified advice, often without reference to legal doctrine or jurisprudence, conflicts significantly with the norms of client advice generated by the Italian institutional context. Consequently, the reaction of the Italian lawyers studied was to develop legal practices that reflect both the best practices promoted by transnational law firms’ training academies *and* those generated by Italian institutional contexts. Italian lawyers working for English transnational law firms do not mimic in their practices lawyers in the home-country offices of transnational firms. But they also do not always behave and practice exactly like corporate lawyers working at domestic Italian firms in Milan either. Instead Italian lawyers working for English transnational law firms often develop a toolkit of practices that allow them to become what might be described as an Italian transnational lawyer. An Italian transnational lawyers is able to adapt to different situations with the practices promoted by the firm being selectively adopted, for example when working with colleagues from other offices to complete a cross-border deal, whilst ‘Italian’ practices are preserved in other situations, for example when working with Italian colleagues or on rare occasions clients. One lawyer represented this process by suggesting “Oh you know, Italians can adapt themselves quite a bit! I don’t know how I did it, I just don’t know (58, junior associate, Milan office, English firm). However, when the firm’s best practices are adopted this does not necessarily lead to their exact replication. When advising English clients, for example, Italian lawyers refrain from their desire to discuss all of the legal technicalities associated with the case but they continue to provide more detailed advice than their English counterparts may do. Such a contingent outcome has also been noted in work studying the role of identity regulation in PSFs with regulation said to lead to the production of

individuals with schizophrenic (Costas and Fleming, 2009) divided (Mueller et al., 2011) or front stage/back stage (Delmestri, 2006) identities as cynicism and jouissance influence the effectiveness of governance processes (Covaleski et al., 1998). Our research suggests similar outcomes occur when transnational law firms seek to manage lawyers practices through training as part of attempts to limit the effects of institutional heterogeneity on the effective functioning of the firm as a transnationally aligned community.

The use of training academies to manage the practices of lawyers is, then, unsuccessful if the aim is to produce a cohort of ‘cloned’ practitioners who, regardless of the office they work in, share standard practices, unaffected by national institutional systems. And it might, therefore, be argued that, on close inspection, transnational law firms continue to be organizations fragmented by institutional differences. Indeed, senior interviewees in London working for English firms acknowledged that despite the training programs described, patience and tolerance were needed and compromises had to be made in terms of expectations about the styles of legal practice and service delivery in the firms’ Italian offices.² Nonetheless, the same interviewees were also clear that the training academies of firms do help minimise the effects of the institutionally generated micro-politics and social conflicts that Morgan (2001b) and Ferner et al. (2006) describe. By making Italian lawyers conscious of the normalized English practices of the firm and helping them develop the toolkit of practices that turns them into Italian transnational lawyers, compromise becomes a two way process. Italian transnational lawyers are able to advise the home-country English clients of the firm in a manner that in many ways reflects the services received in England. Furthermore, in this way Italian transnational lawyers can also work

collaboratively with English lawyers on cross-border deals without generating too many conflicts as a result of differences in core legal approaches and practices. But, at the same time, Italian lawyers retain some of their uniquely Italian characteristics, being able to tame these when necessary because of their awareness of the need to adopt alternative practices when working with English clients or colleagues. It seems, therefore, that despite beginning with the ambition to export home-country best practices worldwide and setting up training academies designed to support this agenda, English transnational law firms have actually had to revert to strategies of adaptation like other intensely embedded TNCs. This has not gone as far as resulting in two way processes whereby home-country best practices are also changed as a result of host country influences. But the result is undoubtedly more geographically heterogeneous some might say fragmented operations than firms had originally anticipated because of the way workplace practices are fundamentally defined by place-specific institutional contexts.

Conclusions

This paper makes two contributions to existing debates about TNCs and the effects of geographically heterogeneous institutional contexts on their operations. First, the paper demonstrates that the activities of TNCs are impeded by the geographically heterogeneous influences of institutions on workers' *practices* (see also Gertler [2004], Morgan [2001b] and Ferner et al. [2006] on such ideas). Understanding the nature of this relationship between institutions and practices has been shown to be important in the context of PSFs because of the way workplace practices and their characteristics form the competitive advantage of PSFs and

thus need to be regulated in order to ensure services are delivered in a globally consistent and appropriate fashion (c.f. Kärreman and Alvesson, 2009). Specifically in the case of the English transnational law firms studied here, it has been shown that seamless service delivery around home-country defined best practices is the basis of the firms' business model and competitive advantage. But links between different elements of the Italian legal institutional system and the production of certain Italy-specific normalised understandings of legal practice result in significant difficulties being faced when attempts are made to implement the 'one firm' model in Italy. Variations in the norms of workers day-to-day practices compel transnational law firms to engage in adaptation processes they had originally hoped to avoid with home-country best practices coexisting and sometimes being overridden by host-country, institutionally defined norms of practice.

Second, by studying the use of training academies by transnational law firms, the paper makes an important contribution to understanding of the way TNCs seek to manage, at the level of workers' practices, the effects of institutional difference on their activities. The empirical analysis shows that training academies are used to 'govern' (c.f. Foucault, 1980) workers practices through discourse and experiential social learning, something enabled by the power relations constructed by appraisal and promotion processes. However, as the analysis also shows, this governance process is resisted and, whilst effective at lowering the institutional barriers to the implementation of the 'one firm' model, does not entirely manage to change the subjectivities and practices of Italian lawyers and to realign these with those of their English counterparts. Instead, the micro-scale study presented here reveals a socially complex picture in

which the outcomes of attempts to manage institutional effects on workplace practices vary as a result of place-specific contingencies in the nature of institutions-practices relationships. The struggles documented in our analysis are a contingent result of the way the Italian institutional contexts generates lawyers with perspectives and practices that differ in very significant ways from those espoused by English firms; clashes that are unlikely to be replicated exactly in other institutional contexts. As a result, the transnational lawyer in Germany or Spain and her/his response to training programs and the toolkit of practices developed are likely to be different to the Italian transnational lawyer. And likewise the adaptations and hybridizations that transnational law firms have to make to best practices are also likely to be place-specific, further leading to multiple layers of complexity in terms of the institutional fragmentation of firms.

The findings of the paper suggest, therefore, that studies of the effects of institutions on TNCs need to go beyond the study of static models of both varieties of capitalism (i.e., beyond simple dichotomies such as that between liberal/coordinated markets) and firms (i.e., beyond models of opportunistic or collaborative firms) in order to better assess the complex socio-political outcomes of connections between institutions, workers' practices and the organization of TNCs. Micro-scale study of the way geographically heterogeneous practices get produced, challenged and changed (or not) in the different outposts of TNCs can act as the basis for such research, providing what might be called an 'institutional archeology' that unpicks the direct and indirect relationships between particular elements and ensembles of institutions, practices, and place-specific responses to TNCs' attempts to roll-out their business models. Further developing such an institutional archaeology would, however, necessarily involve comparisons across multiple

national but also sub-national contexts and the detailed study of particular elements, both formal and informal, of institutional ensembles and their role in producing particular place-specific practices. Indeed, one of the limitations of this paper is its focus on what might be described as ‘generic’ English and Italian institutions and their effects on transnational law firms. A more refined archeology might consider how institutional effects vary from city to city, for example considering how English firms export what might be London-specific legal practices into what might be a Milan-specific institutional context. In order to engage in such analysis comparisons between the activities of English transnational law firms in multiple cities within a country (e.g. Milan and Rome) would be needed, as well as consideration of how transnational law firms’ best practices themselves vary depending on place-of origin, through comparison for example of English and US firms but also firms originating from different cities within those countries (e.g. Chicago and New York). Relatedly, comparative research that provides a better understanding of the place-specific nature of the outcomes of TNCs’ attempts to manage institutional difference is needed. This would again further reveal connections between the way different elements and ensembles of institutions produce place-specific workplace practices and the way the degree and nature of difference between home- and host-country institutions and practices determine the type of management strategies used and their outcomes. As such, the theoretical and empirical contributions of this paper provide an important basis for crucial future research endeavors.

End notes

¹ English lawyers also complete these training programs and, as such they also form a part of governance strategies that are not designed to deal explicitly with institutionally generated difficulties. However, when non-English lawyers complete the programs particular emphasis is placed on managing the place-specific clashes in legal practices that result from institutional heterogeneity, rather than just providing generic skills based training.

² Similar comments were made in relation all overseas jurisdictions but the level of compromise varied from place-to-place as a result of variations in the severity of clashes generated by differences in institutionalized practices.

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Table 1. The top 10 transnational law firms, ranked by revenue. English firms are highlighted in *italics*

Source: Firms' websites and The Lawyer (2010)

Firm	Country of Origin	2009 gross fees (£M)	Lawyers	Global Offices
Skadden Arps Slate Meagher & Flom	USA	1,380	2,100	22
Baker & McKenzie	USA	1,374	3,627	70
<i>DLA Piper*</i>	<i>USA/England</i>	<i>1,319</i>	<i>2,267</i>	<i>59</i>
<i>Linklaters</i>	<i>England</i>	<i>1,298</i>	<i>2,367</i>	<i>30</i>
<i>Freshfields Bruckhaus Deringer</i>	<i>England</i>	<i>1,287</i>	<i>2,263</i>	<i>28</i>
<i>Clifford Chance</i>	<i>England</i>	<i>1,262</i>	<i>2,904</i>	<i>28</i>
Latham & Watkins	USA	1,192	2,150	22
<i>Allen & Overy</i>	<i>England</i>	<i>1,091</i>	<i>2,122</i>	<i>25</i>
Sidley Austin	USA	928	1,892	16
Jones Day	USA	818	2,516	29

*DLA Piper is split into dual firm down English and USA lines. Totals here are combined from the two entities.

Table 2. The major English transnational law firms operating in Italy

Firm	Partners in Milan¹	History in Italy	Defining Characteristics of work in Italy
DLA Piper	28	Originally organic establishment of office in late 1990s. Merged with Apollo & Associati in 2009.	“While doing business in Italy is easier than ever, understanding local markets and the legal and regulatory procedures is fundamental for successful strategies. We provide exactly this local expertise: full service legal advice and the benefit of over 10 years’ experience and international capability across Europe, Asia and the US” (http://www.dlapiper.com/italy - accessed 23/09/2010)
Linklaters	9	Organic establishment of office after initial alliance in late 1990s with Gianni Origoni & Partners	“The firm focuses on complex and high value domestic and multi-jurisdictional deals” (www.linklaters.com/Locations/Pages/Italy.aspx - accessed 23/09/2010)
Freshfields Bruckhaus Deringer	13	Formed through merger with Lega Colucci Albertazzi & Arossa in 1996	“...a range of domestic and international legal advice in various practice areas, with a particular emphasis on cross-border expertise, and has been involved in many of the most significant transactions in Italy in recent years.” (http://www.freshfields.com/locations/italy - accessed 23/09/2010)
Clifford Chance	16	<i>Merged with Grimaldi e Associati 2001. Demerged 2002 and setup own office.</i>	“Clifford Chance Italy draws on its vast local knowledge and integrated global approach through a team of professionals who have been working together for the last 15 years and includes lawyers qualified to practise in Italy, UK and the US. As a consequence, the Firm provides the highest quality cross-jurisdictional legal assistance” (http://www.cliffordchance.com/locations/italy.html - accessed 23/09/2010)
Allen & Overy	16	<i>Merged with Brosio, Casati e Associati in 1998.</i>	“The Italian practice combines Allen & Overy's global network with the local heritage and know-how of a local company. This means clients benefit not only from the advantages of a truly international firm, but from one that appreciates the subtleties and peculiarities of the local market” (http://www.allenoverly.com/AOWEB/PeopleOffices/Country.aspx?countryID=18716&prefLangID=410 – accessed 23/09/2010)

¹ Data sourced from firms’ websites

Table 3. Best practices promoted by training programs in one English transnational law firm.

Source: Firms' documents collected during fieldwork

Skill	Best practices promoted and indicators of success
Client focussed advice	Uses legal principles to develop commercially sensible advice Seeks innovative but effective and efficient solutions that do not overly burden client with legal technicalities
Working profitability; Selling the firm and winning clients	Harnessing the resources of the firm to deliver outstanding advice efficiently Actively networks and promote firm's services. Cross-refers business to colleagues as appropriate
Working with international colleagues; Advanced teamwork and leadership	Use the [firm x] communication platform to regularly interact with fellow practice group members worldwide Collaborates with colleagues in multiple offices and motivates teams worked within

Table 4: Quotations that outline the types of understanding developed by Italian lawyers as a result of participation in training programs.

Source: fieldwork

The difference between the client advice practice of an Italian and English lawyers

“My experience is that lawyers of other jurisdictions are more efficient in terms of productivity. There is a cultural thing here whereby lawyers are not a service provider. But a kind of gurus of mastering the laws, so they can take the time they like” (53, Senior Associate, Milan office, English firm)

The role teamwork in the best practices of English transnational law firms

“[firm x] has paid great attention to the concept of the teamwork here, we are a global firm, we are a firm, the hierarchy goes to the firm not the individual... Yes there is really attention to you as a team player, why in Italy in the Italian firms, we have the myth of the great sole practitioner, the great lawyer, the One. Everyone I would say dreams of being the Man, the real lawyer, the Great Lawyer...there are the great egos in the firm and they don't act as a team – everyone looks at his own interests” (54, Junior associate, Milan office, English firm)

The emphasis on international teamwork as part of the everyday practice of a English transnational firm's lawyers

“yes so last year I attended the first course here, here it was the International skills foundation, yes it last one week in London, and uh, there were how you say, there were 20, 20 people from all over the world...I also attended another soft skills course two years ago, for three or four days in Essex and that was held by some psychologists or something. It was a really, was all based upon soft skills, so the way you behave with your colleagues, so for example, how you should delegate work to juniors, you know the approach you should have for that, and obviously it is something that you know when you are attending the course, you find it really interesting and useful. But this is something for example that even, coming back to the differences between Italian firms and English firms, this is something that would not even be imagined to do in Italy” (54, Junior associate, Milan office, English firm)
