

When “Mercury” goes Global – The Role and Fate of “Messengers” and “Mediators”

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Globalization is a word that suffers from overuse. Still, behind the overstretched concept lies the reality of an economic world that is neither fully contained nor constrained by national boundaries. Economic organization and coordination increasingly reach across national borders. Transactions and interactions quite often cross boundaries, particularly national ones. The current internationalization of economic activity is not unprecedented. Most economic historians point to the significance of a “first globalization”, somewhere between the late 1870s and the beginning of the First World War (Eichengreen 1996; O’Rourke 2002, Berger 2003). This “first globalization” was brought to a halt by the First World War and then in close succession by the World Depression and the Second World War. In the post 1929 depression decades, economic activity and exchanges with an international reach had markedly shrunk. The contemporary episode of globalization has therefore relatively clear historical boundaries. It started after the end of World War II and picked up significantly from the 1980s on. It is still too early to predict what will be the impact of the current crisis on the globalization trend even if it is quite likely that there will be an impact.

The main difference between the contemporary episode of economic globalization and earlier ones in history, we would argue, is that this more recent episode has been stabilized and institutionalized to a much greater degree (Djelic and Quack 2003). Economic globalization has come together with an increasing formalization, structuration and codification of rules of the game, governance patterns and processes, at a transnational level. Contemporary economic globalization has come together with a great degree of systematic organizing – well across and beyond national boundaries (Djelic and Quack 2003, Djelic and Sahlin-Andersson 2006, Ahrne and Brunsson 2008). As a consequence, the contemporary episode of globalization might be more resilient and resistant than, for example, the episode of economic internationalization that preceded the 1929 world crisis.

So “Mercury” has gone global – or at least transnational – to a significant extent and particularly since the 1980s.¹ In the process, national forms of capitalism or national business systems have been challenged, disturbed and even transformed (Streeck and Thelen 2005; Morgan et al. 2005). A quite striking feature of our globalized or transnationalized “Mercury” is the thick and dense presence of different kinds of “messengers”, “mediators” or “carriers” (Engwall 1992, Engwall, Gunnarson and Wallerstedt 1996, Sahlin-Andersson and Engwall 2002a). This paper proposes to focus, precisely, on this dense ecology and its increasingly transnational nature.

Firstly, we will clarify and describe what is meant with terms such as “messengers” or “mediators”. We will outline the boundaries of this particular population. Secondly, we will explore the role possibly played by this population in fostering and structuring the globalization of “Mercury”. We will consider more particularly here the case of the consulting industry. Thirdly, and finally, we will wonder about the impact in return, which the globalization of “Mercury” may be having upon “messengers” and “mediators”. Our focus this time will be law firms.

Messengers and Mediators: Exploring the Dense Ecology of “Transnational Mercury”

In the Roman Pantheon, Mercury was the god of merchants and tradesmen. At the very same time, he was also the “god of thieves” and the “god of travellers”. Travelling trading merchants could certainly encounter thieves along the way. Or merchants themselves, may be, could be perceived sometimes as “travelling thieves”? In any case, this complex identity of Mercury made him the perfect “Messenger” for all other Gods in the Roman Pantheon. This messenger role is symbolized, in the representations of Mercury, by two small wings on his feet and/or on each side of his helmet.

The transnationalization of economic activity certainly brings closer together the two main faces of Mercury – as merchant and as travelling messenger. We will come back at the end of the paper to the question of whether it actually makes more acute the connection between those two faces and the third one – Mercury as god of thieves! Mercury, the merchant, goes

¹ In line with Hannerz (1996), we tend to prefer the term “transnational”. « The term ‘transnational’ is in a way more humble and offers a more adequate label for phenomena which can be of quite variable scale and distribution, even when they do share the characteristics of not being contained within the state » (Hannerz 1996: 6).

transnational if not global and as such his role as travelling messenger certainly intensifies. As Engwall aptly noted, in the process furthermore, “Mercury, the messenger of the gods, has gained a large number of messengers of his own” (Engwall et al. 1996; Engwall 1992). The “messengers” of the merchant god refer here to “increasingly vast numbers of business graduates” (Engwall 1992, Engwall et al. 1996). This ever expanding global army of business graduates is the product of the formal institutionalization of business education, first in the United States and then progressively everywhere in the world. It followed in particular the spread of MBA programs. The MBA emerged in the United States at the turn of the 20th century. After, World War II, the MBA became a product of exportation and the spread accelerated from the late 1980s on. In Eastern Europe, the fall of the Berlin Wall marked the beginning of a rush. American universities and non-profit organizations worked with local universities to develop management training programmes – including MBAs. Financing came from large American foundations – Mellon or Ford amongst others. The European Union also jumped in, but to a lesser extent. And a few private donors realized major investments – the case of George Soros is worth mentioning here. The spread to Asia was also striking. By 2002, 62 Chinese universities had obtained from the state the right to deliver an MBA. Even in Africa, the forgotten continent of globalization, MBA programmes are flourishing today. From South Africa to Ethiopia, Zimbabwe, Egypt or the Gulf states, getting an MBA seems to be the way to go for local elites (Djelic 2009).

So the messengers of Mercury – business graduates and professional managers – have proliferated in parallel to the globalization trend. Amongst those messengers, a number have what can be argued a pivotal mediating role. They “carry”, diffuse, spread, adapt and transform knowledge, ideas, practices, solutions, in a particular powerful way. In this group, we find an expanding and internationalizing population of service intermediaries – consultants, auditors and accountants, financial analysts, business lawyers, the business press and business Academia. The importance of this group as a group was early on recognized and pointed out by Lars Engwall and his colleagues and co-authors (Engwall and Kipping 2002; Sahlin-Andersson and Engwall 2002a). There has been an hesitation in the literature with respect to the use of descriptive labels. Should we use the term “carriers” or should we prefer the term “mediators”? The term “carriers” has the great advantage of pointing towards flows, circulation, processes (Sahlin-Andersson and Engwall 2002a). It underscores the intense and multidirectional “travelling” associated with this particular group of messengers. But it may suggest a “somewhat passive association: someone or something carrying a package, a

passenger, or even a disease” (Sahlin-Andersson and Engwall 2002b: 9). In contrast, the role of this particular group amongst Mercury’s messengers is a quite active one. Not only do they carry but they also mould, shape, translate, activate, interpret (Czarniawska and Sevón 1996, Meyer 1996, Alvarez 1998, Sahlin-Andersson and Engwall 2002). With this in mind, the term “mediators” appears to be better suited and we decide to select it for this particular contribution.

Within the ever expanding global army of Mercury’s messengers, we find a powerful group of pivotal “mediators”. Those mediators carry, shape and transform knowledge and practices. They are also central nodes of the interaction across and between messengers. Throughout the second half of the twentieth century, the density of this group has increased significantly. This has particularly been the case with the accelerating transnationalization of economic activity from the 1980s on. Contemporary global Mercury is unmistakably associated with a rich, diverse and growing group of “mediators”. This group, furthermore, appears to move faster than others towards a transnational identity, sense of belonging if not of community (Djelic and Quack forthcoming). In the next two sections to this paper, we explore the two sided interactions between global Mercury on the one hand and the many mediators that are associated with it on the other. Firstly, we consider the role of those mediators in fostering in fact and sustaining the transnationalization of Mercury. We look there, more particularly, at the case of Management Consultants. Secondly, we look in turn at the impact of globalizing Mercury on mediators themselves – focusing this time on business lawyers.

Management Consultancy and the Globalization of Mercury²

In its modern form, management consulting has a relatively short history. The consulting industry as we know it was born in the United States during the 1930s, partly as an unintended consequence of the Glass Steagall Act (1933). American legislators wanted to limit the power of banks and after 1933 the latter’s narrower span of activities no longer included business counsel. This important role was taken over by new entrants who went through a period of rapid growth and managed to institutionalize business and corporate counsel as an industry unto itself (McKenna et al. 2003, McKenna 2006). Starting in the 1960s, this American “invention” began to export itself. American consultancies engaged an internationalization path, following in the footsteps of their large American clients. The early

² This section draws upon McKenna, Djelic and Ainamo (2003)

destination was essentially Western Europe. The second moment in the process of internationalization came in the 1980s and it was of much greater intensity. There was a combination, then, of a rush towards new geographical frontiers (Eastern Europe, Asia, middle East...) and of an exploration of new spheres of activity, in the private but also in the public and not-for-profit sectors. At a first level, the internationalization of management consulting could be understood as a mere consequence of globalization. The globalization of “mediators” was directly following upon the globalization of “Mercury”. In fact, the story is not so simple and we propose that there is more than meets the eye in that case.

The birthmark of modern management consulting had been to make transparent and independent an activity, business counsel, which had been used until then to serve private interests often to the detriment, it was believed, of the wider public. From the 1930s on, the management consulting industry played within the American economy the role that was played in other parts of the world – and had been played earlier in the United States – by banks and cartels. Modern management consulting rode on the wave of the profound transformations that characterized American capitalism then (Sklar 1988). Its progress was connected in particular to the emergence and development of professional management. In fact, the modern form of management consulting stands out as an important institutional component of American corporate capitalism. It can be considered a constitutive element of its “DNA” – on par with the large multidivisional firm (Chandler 1977, Fligstein 1990), public ownership and stock markets (Berle and Means 1932, Roe 1994), professional management and business education but also antitrust legislation (Djelic 1998, Djelic and Amdam 2007).

The internationalization of that industry and of its associated activities is bound to be, in consequence, of great significance. The internationalization of modern management consulting is not simply an indirect consequence of economic globalization. It is also, we propose, itself a significant driver of the process of economic globalization. Surely enough, the international expansion of modern management consulting contributes to the broader, faster, thicker diffusion of knowledge and practices – and hence contributes in the process to globalization. But this is not the extent of what we mean here. The rapid diffusion of knowledge and practices across national borders, for which the expansion of modern management consulting is in part accountable, is only the tip of the iceberg. The more significant impact of modern management consulting and its internationalization is its

contribution to the redefinition of the rules of the capitalist game in the countries where it comes to play a role. The internationalization of modern management consulting suggests and fosters an institutional transformation, across the world, of forms of capitalism. Using a metaphor proposed by McLuhan in his work on media (McLuhan 1964), the “medium is the message” – and we should indeed focus on the “medium” itself.

Modern management consulting is in fact part of a “package” and its institutionalization in any country is bound to come together with the institutionalization of other elements of that “package”. It may both follow and reinforce the constitution of large firms, the multiplication of joint stock companies, the expansion of the role of the stock market, the enactment of strict antitrust rules and the professionalization of management. A survey of European top management consultants, in the late 1990s, indeed showed that quite clearly (Garcia 1999). The consultants surveyed perceived deregulation and the ever-stricter implementation of antitrust legislation as key factors explaining the expansion of their industry. In such a context, consulting firms emerged as an important, and the only legal, connecting link or mediating institution between a company and its direct and indirect competitors. Another important conclusion reached by European management consultants was that “the relevance of strategic management consulting (was) strongly related to the systems of corporate control implemented by the firms” (Garcia 1999). More specifically, “financial rationality based on the premise that management’s goals concern the maximization of the value of the company translated into an increasing demand for management consulting” (Garcia 1999). Put differently, this tells us that management consulting was bridging the gap in Europe between local firms and “new owners”, mostly institutional investors of Anglo-saxon origin. In the confrontation between different worlds, different paradigms, consulting firms emerged as a smoothing interface. For foreign investors, consultancies served as a form of corporate insurance; for European firms they were a legitimacy-enhancing device. In the process, consulting firms helped in the promotion, diffusion and institutionalization of a form of ownership structure and corporate governance quite foreign to European traditions – the public firm with dispersed ownership freely traded on stock markets (Roe 1994). Last but not least, the strong presence and clout of management consultancies has had an impact on national power structures and elite systems. The consulting industry has naturally reinforced the trend, in most countries, towards a professionalization of management. More importantly, we see that consulting firms tend to emerge as an alternate and legitimate – in worldwide standards – route to corporate power in many countries. They are bound to disrupt, in the

process, traditional social structures and local patterns of elite reproduction. This may even contribute in time to the relative homogenization, across national borders, of business elites along a model with clear American origins (Byrjeflot 2000, Djelic 2009).

Management consultants are, without doubts, important mediators of globalizing Mercury. We argue, though, that they are in a sense more than that. The Management Consulting industry, as an institution – a “medium” in the sense proposed by McLuhan – is a powerful driver of institutional homogenization and an agent of globalization. These particular “mediators” do not simply emerge from and reflect globalizing “Mercury”. They are also highly instrumental in shaping it!

The “fate” of messengers and mediators when Mercury goes global: varieties of international law firms³

Consultants are not the only mediators of Mercury. Members of other business related professions such as accountants, financial analysts and business lawyers have been increasingly practicing across borders and thereby diffusing, spreading and transforming knowledge, practices and rules between countries and across the globe. Most of these global mediators have not been acting as individuals but as members of large professional service firms which since the 1970s underwent themselves a rapid internationalisation. The internationalisation of these firms, however, is subject to various tensions. These tensions arise from different speeds and degrees of cross-border openness in their product and labour markets, their regulatory environments and, last but not least, from internal difficulties in generating truly transnational organizational capabilities.

These tensions inherent to the internationalisation of the mediators of mercury are particularly pronounced in the area of law firms because the knowledge and professional qualifications of lawyers are still strongly shaped by national educational institutions, professional codes and cultures and predominantly national professional bodies (Morgan/Quack 2005). Equally important, the task environment of international law firms, e.g. corporate demand for their services, is not only shaped by supra- and transnational but still also reliant to a significant extent on national legal institutions. In the daily routine work of these messengers and

³ This section draws on Morgan and Quack (2005, 2006a, 2006b).

mediators, the national legal code is equally present as transnational and international law. This raises broader questions of whether and to which degree international law firms are able to generate truly transnational competences which will allow them to play their role as the mediators of globalizing Mercury in a serious way.

This is not just a result of the rather late internationalisation of large law firms in comparison to other sectors. On the contrary, as highlighted by Lars Engwall and collaborators in studies in the 1980s and early 1990s, the internationalization of business organizations and networks has had to deal with various barriers and control issues (Engwall 1980; Engwall and Vahlne 1985). More recent research on multinational companies support the idea that the generation of transnational competences is still highly demanding in today's more globalized Mercury (Geppert and Mayer 2006; Kristensen and Zeitlin 2005; Morgan et al. 2001). While the majority of multinational enterprises does not seem to follow any longer a monolithic model controlled and directed by the home country headquarters, MNEs still seem very far away from the heterarchical network model described by Bartlett and Ghoshal (1989, 2000).

In the absence of easily available blueprints, mediator firms in the law sector have found their own ways to organize the expansion of service production and service delivery across borders. There is a whole variety of organisational arrangements which can be broadly brought together under two categories. The first category can be labelled the network model and the second the global firm model (Morgan and Quack 2006a: 220). In the network model, firms retain their independence in national contexts but advertise and achieve a broader transnational reach by establishing relationships with other firms. The 'global firm' model, on the other hand, refers to law firms that attain an international reach by opening their own offices in different jurisdictions and having a presence in key global cities (Sassen 2002). What both models have in common is that they represent an associative type of organisation (Quack, forthcoming). While control and coordination in the associative type of organization are more decentralized than in the hierarchical and ethnocentric model of multinational organisation outlined by Perlmutter (1969), they are also much more loosely interconnected than the polycentric and heterarchic types of multinational organisation discussed by Bartlett and Ghoshal (2000).

Apart from their multi-layered task and regulatory environment, the continued centrality of partnership as the dominant mode of ownership in law firms is an important feature which has

shaped this associative type of multinational organization. While there have been recently some reforms, such as the transformation of large British and American law firms into limited liability partnerships, law firms still belong to their partners. As outlined in Morgan and Quack (2006a: 220) the partnership structure is not easy to internationalize. In contrast to the public limited company, where liability is strictly contained, in the partnership the partners are jointly responsible and liable for the debts of the firm. As those firms grow in size and reach beyond national borders, traditional ways of controlling risk exposure by informal collegial control and risk insurance with national professional bodies meet their limits. Furthermore, partnerships have a specific system of distribution of rewards (which is basically decided by the partners or a sub-group of them) that again is difficult to internationalize. Since the earning opportunities of partners differ strongly between different jurisdictions, a delicate balance is needed to maintain the benefits of collegiality in an international organization.

As a result, many business law firms choose to internationalize by joining international networks of similar firms. These networks range from pure referral networks to more integrated, quasi-firm and best friends networks in which some of the borders between firms start to blur and some business functions are shared by the member firms. For various reasons, however, including the perceived advantages of establishing a unified 'global' brand with an apparently standardised quality and reputation, very large law firms have followed the global firm model instead. Inside these formally unified firms, though, the associative type of organization still prevails in many respects. To the extent that international law firms are organized as federations of national partnerships, careers and rewards are still closely linked to the performance of partners within the national partnership while the integration into a global firm facilitates the combination of expertise in cross-cutting transnational project teams.

Large European law firms, in particular, are exemplars of this associative type of multinational professional service firm. Basically grown out of mergers between British and German firms in the 1990s, international Euro law firms like Freshfields, Linklaters and Clifford Chance have since then successfully expanded internationally and now rank, together with US mega-law firms, among the top 10 global law firms (Morgan and Quack 2005). The leading European law firms have now a broader geographical reach - measured by the number of countries in which they maintain foreign offices - as compared to US international law firms. As Silver (2000: 1124) observes the "recent wave of British and European law firm

combinations [thus] reflects a comprehensiveness with regard to location that is uncommon for U.S. law firms.” While incorporating some US influences, the internationalisation strategies of these Euro law firms builds to a significant extent on the combination of partners (and lawyers) with multi-jurisdictional legal qualification in and across offices. There is, in those firms, a constant cross-border flow and translation of knowledge and practices. Within these firms, thus, ‘new hybrid types’ of cross-border organization are arising ‘out of the re-combination of elements of different national models’ (Morgan and Quack 2006b: 406).

The relevance of the associative type of internationalisation of law firms is supported by a recent change in strategy by the large American law firms which up into the 1990s dominated international legal markets with their ethnocentric and hierarchical model of internationalisation which focused predominantly on the export of American law. Silver (2007) argues that, faced with the appearance of European global law firms offering a wider range of multijurisdictional legal services, US law firms reconsidered their internationalisation strategies and are now abandoning their export strategy in favour of a stronger orientation towards local customers in their overseas business. While the extent of this reorientation still needs to be seen, it nevertheless points to potential comparative advantages that multinational professional service firms can draw from their internal variety in those segments of global service markets which are structured by polycentric and multi-layered institutions (Morgan and Engwall 1999).

International law firms may represent an extreme case of this associative model of multinational firm since they are, as explained above, still bound in so many ways to national regulations. Professional service firms in other sectors, though, are also often organized as federations of national partnerships, or if transformed into limited liability partnerships, still continue to operate at certain level in associative ways. Even the large consulting firms identified above as powerful drivers of global homogenization are not free from the internal tensions described in this section (Morgan et al. 2006) and display associative organizational features, if not everywhere at least in certain jurisdictions (see Rudolph and Okech 2004 for the German case).

From this we conclude, that organizations that are key mediators of a globalizing Mercury become themselves subject to tensions arising from the unequal and fragmented nature of this globalization. While in some sectors homogenizing forces may surface as a result of the

diffusion of relatively standardized knowledge, practices and rules, in other sectors a patchy picture of heterogeneous trends emerges. As argued elsewhere (Quack 2007), the practice of large global law firms often gives rise to a bottom-up process of law-making which, while following in some respects the logic of rule setting in Common Law systems, in other respects generates a polycentric transnational law rather than a unified global legal frame.

Mercury in the hands of messengers and mediators?

In this chapter, we have built upon an argument that was proposed early on by Lars Engwall and his collaborators – our globalizing “Mercury” is characterized by a thick and dense ecology of messengers (Engwall 1992; Engwall et al. 1996). Amongst those messengers, we can point to a pivotal group. Those are professional and professionalized “mediators” that carry, diffuse, spread, adapt and transform knowledge, ideas, practices, solutions, in a particular powerful way (Sahlin-Andersson and Engwall 2002a).

We have explored, in the course of this chapter, the two-sided interplay between globalizing Mercury and this dense group of mediators. In a first step, and building upon the case of management consultancy, we have considered the role of these mediators in fostering and structuring the globalization of Mercury. In a second step, we have explored the impact in return of globalizing Mercury on mediators themselves, zooming in this time on the particular case of business lawyers.

We found that mediators are subjects as well as objects of ongoing processes of globalisation. While some of these processes seem to point towards a global homogenization of business rules, models and practise others seem to generate new heterogeneity and to point towards a transnational world of overlapping and interrelated layers of economic governance. We observed that Mercury’s mediators, as they swarm out to the transnational world to disseminate, diffuse, translate and adopt knowledge and information, become themselves transformed in the process. The conversion of corporate or collective actors into transnational organisations with constituencies that span across jurisdictional and cultural borders is, as we argued in the case of law firms, a challenging and demanding undertaking. In fact, as multinational organisations and professional service firms become more complex they start to nurture and employ their own internal messengers and mediators for the sake of coordinating internal flows of information and knowledge,

With the growth and expansion of multinational companies, and the accompanying multiplication of transnational service intermediaries, the relation between Mercury and its army of messengers and mediators seems to be changing. Mercury's army of messengers and mediators have become powerful drivers of the globalization process itself and within multilayered transnational fields of economic activity, it is often not so clear who is sending whom out. Boundaries between Mercury and its messengers and mediators are becoming increasingly blurred!

Ironically, this blurring of boundaries seems to trigger, as in ancient times, ambiguities about Mercury's role. It brings back the old trilogy of Mercury as God of Merchants, as travelling Messenger for the Gods but also as God of Thieves. For messengers and mediators whose activity consists of disseminating, transferring and translating complex knowledge and information, distinctions between diffusion and appropriation, dissemination and self-serving capture, translation and acculturation are often melting away in everyday operations and practices. In addition to all this, we should remember that mediators are intensively involved in the generation of transnational rules to govern their own activities. More generally speaking, they are important contributors to the shaping of rules of the game for a globalizing Mercury (Djelic and Quack 2003, Djelic and Sahlin-Andersson 2006, Djelic and Quack forthcoming). The internal complexity of multinational mediators and their ever expanding numbers can easily combine with a lack of control and oversight to generate what Lars Engwall (1997) described in the case of the Swedish banking crisis as "the invisible hand shaking the visible hand". A globalizing Mercury, one could argue, has increasingly come to "fall into the hands" of key mediators. The current financial and economic crisis shows that this "shaking" might not have been all for the greater collective good. Mercury, the God of Merchants and Thieves, has had to face again the complex ambiguities of its identity. Today, it certainly looks as if Mercury could use the help of Salus Augusta, the goddess of public welfare. At the same time, though, in our contemporary world, we might not want to wait for the intervention of the gods!

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