

Marc-William Palen, *The 'Conspiracy' of Free Trade: The Anglo-American Struggle Over Empire and Economic Globalisation, 1846-1896*, Cambridge University Press, Cambridge: 2016, pp. 334

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1. SURROUNDED BY CONSPIRACIES

Most of us accept, at least on some level, the constructivist notion of the social world as a cultural and linguist construct. That the world is a social construct seems most evident from its dark side. The unknown spurs the imagination, rendering a threatening situation even more sinister. Such heuristic simplifications¹ tend to be particularly efficient whenever one needs to quickly fill in gaps in one's understanding of the world. Conspiracy theories, feeding on insecurity, can thus be traced throughout human history, from ancient mythologies to contemporary technological² and medical³ myths.

Even in law – arguably the most linguistically-embedded of social realms – it is rare to witness anyone capable of altering this structure beyond amplifying our deeply embedded beliefs, or the dexterous reframing of a dispute. However, occasionally we come across works that change our perception of the world. Such, for instance, was the case of Howard Zinn's *A People's History of the United States*.⁴ Whether one agrees with any of its diverse critics or not,⁵ Zinn managed to bring the ugly, underdog narrative of US history to general attention. Such rare occasions should be particularly cherished by lawyers, as they remind us to question the assumptions upon which normative claims are constructed.

The 'Conspiracy' of Free Trade. The Anglo-American Struggle Over Empire and Economic Globalisation, 1846-1896 by Marc-William Palen deserves just such particular attention.⁶ Inasmuch as the author challenges the reductionist oversimplifications of still-valid globalisation dilemmas, the book could, hopefully, immunise public discourse against irrational fears and the current surge of populism dictated by ignorance. This is important given that conspiracy patterns seem all too easily applied to the “sinister ways” of the (global) economy, notably to alleged secret alliances between the proponents of free-trade and the beneficiaries of neo-imperialism. The problem seems ever more pressing since the 2008 global financial crisis, as we are currently witnessing the questioning of the very foundations of liberal democracy and market economy (not to be confused with debates concerning needed reforms). Frantic news cycles have exacer-

¹ D. Kahneman, *Thinking Fast and Slow*, Penguin Books, London: 2012.

² Popular Mechanics, *9 Top Tech Myths Debunked*, available at: <http://bit.ly/2p8W8AR> (accessed 30 May 2017).

³ BBC, *Medical Myths*, available at: <http://bbc.in/2oAX51c> (accessed 30 May 2017).

⁴ H. Zinn, *A People's History of the United States*, Harper & Row, New York: 1980.

⁵ A. Domosławski, *Dzieje na nice wywrócone*, 22 Polityka 2016.

⁶ M.-W. Palen, *The "Conspiracy" of Free Trade. The Anglo-American Struggle Over Empire and Economic Globalisation, 1846-1896*, Cambridge University Press, Cambridge: 2016.

bated the deprivation of a subjective sense of security experienced by Western societies, which are struggling with the complexities of the global economy as well as the expectation that every subsequent generation will live a better life. Hence the turn from the expectations of liberty to quick-fixes vis-à-vis security.⁷

On one hand, this has given rise to a legitimacy crisis of the current political set-up and, even more so, of international organisations, which embody incomprehensible threats to cosy, local security. On the other hand, insecurity creates fertile grounds for populism, which has swept across political scenes, from Hungary (Victor Orban) to Poland (Beata Szydło/Andrzej Duda) to the UK's Brexit and Donald Trump presidency in the U.S. From the perspective of public international law, multilateral economic treaty talks – including the general backlash against TTIP, CETA or ACTA – have suffered from perfect storm conditions, combining the legitimacy crisis and populism. The culprit? Blame liberalism and a corporate conspiracy.

Economic globalisation has obviously created space for numerous problems, from tying national economies to the caprices of international capital flows to allowing the misuse investment protection in order to derail public regulation. This should not, however, pave the way from insecurity to conspiracy theories with respect to the international economic order. Accordingly, the recurrent theme of the Anglo-American debates concerning free-trade should resonate well with today's economic globalisation belligerents and conspiracy theorists: Does globalisation entail the “universal emancipation of mankind” and serve as a “tool for civilising less advanced societies”?⁸; or has “premature free trade kept societies in a barbaric uncivilised state” and “enslaved domestic manufacturers and labourers to foreign markets”?

2. POST-BELLUM RECAST OF THE NEO-IMPERIAL FREE-TRADE AGENDA

As Marc-William Palen demonstrates, the dominant perception of the inseparability of open-door imperialism and free trade is a “post-bellum recast”.⁹ For the greater part of the 19th century however, “free-traders” were the most vocal critics of American empire-building and should rather be perceived as “imperial anti-colonialists.”¹⁰ It was only at the end of the century that American Listian nationalists guided the Republicans towards state-supported, even coercive, market expansion, while Great Britain shifted towards imperial protectionism (not the ‘free-trade nightmare’ of conspiracy theorists).¹¹ “Open-door imperial interpretation stems from [...] depiction of the American late nineteenth century as a laissez-faire [...] debunking the myth of laissez-faire at home allows for a

⁷ F. A. Hayek, *The Road to Serfdom*, University of Chicago Press, Chicago: 1994; Z. Bauman, *Liquid Modernity*, Polity, Cambridge: 2000.

⁸ Palen, *supra* note 6, p. XXIX.

⁹ *Ibidem*, pp. XXIX-XXX.

¹⁰ *Ibidem*, p. XXXV.

¹¹ *Ibidem*, p. XIX-XX.

much-needed reconceptualization of [...] American imperialism abroad”.¹² By doing just this, Palen identifies the driving powers behind the imperial demand for foreign markets, to some extent replicating English cosmopolitanism, as well as both the domestic and global push-back against this policy. He questions the revisionist argument of a bi-partisan open-door or free-trade imperial consensus¹³ by addressing three questions:¹⁴

- How did Victorian free-trade cosmopolitanism influence American domestic politics and foreign relations?
- How did economic nationalism oppose the liberal agenda in the U.S. and in the British Empire?
- How did these conflicting ideologies shape Anglo-American relations, imperialistic yearning, and economic globalisation?

3. COBDENISM V. LISTIAN NATIONALISM

Although notions of both protectionism and free-trade can be traced back centuries, their substantive meanings continually evolved. It was only during the nascent globalisation of the Victorian period that two fierce disputants, Richard Cobden and Friedrich List, hand-in-hand moulded both notions into their contemporary sense (even though the terms of free-trade or reciprocity, and resulting presumptions concerning the political goals of both camps, can still be very misleading¹⁵). It was a clash between, on one hand, the concept of global free trade, non-interventionism and anti-imperial market expansion, and on the other the perception of a perpetual global conflict entailing nationalism, protectionism, and coercive expansion.¹⁶

Accordingly, free-trade policy can be traced back to Cobdenism, a political and economic doctrine developed by the Richard Cobden, a Victorian advocate of peace, withdrawal from the European competition for balance of power, and free trade. On this basis, Victorian liberals argued against the U.S. protectionist approach.¹⁷ In the U.S. Cobdenism peaked during the presidencies of Grover Cleveland (1885-1889 and again in 1893-1897), which are crucial for Palen's book.

As for the Republican agenda, it can be traced back to Alexander Hamilton, and even earlier to Friedrich List. Based on the economic German school, “Listian nationalism” opted for the protection of infant industries, while pursuing an imperial foreign policy, including the acquisition of foreign markets by force. American Cobdenites' campaign for free trade, which coincided with the alleged English interest, led the Republicans – “realists of international relations” – to the belief that Cobdenism was

¹² *Ibidem*, pp. XXX-XXXI.

¹³ *Ibidem*, p. XXXII.

¹⁴ *Ibidem*, pp. XVIII-XIX.

¹⁵ *Ibidem*, pp. XXII-XXIV.

¹⁶ *Ibidem*, p. 267.

¹⁷ *Ibidem*, p. XIX.

in fact a pro-British conspiracy designed to stunt America's growth.¹⁸ Unsurprisingly, this approach evolved into "Anglophobic paranoia".¹⁹

4. WHY DOES THIS MATTER FOR INTERNATIONAL LAW SCHOLARS IN THE 21ST CENTURY?

It seems that Palen's book, which provides a thorough chronological study of the positions and clashes between Cobdenites and Listians, is a precious resource for economic and imperial historians. Palen analyses an array of sources, from official documents to academic opinions to personal communications between the most prominent stakeholders to press narratives. It covers the Grover Cleveland and Benjamin Harrison presidencies (Chapters 5, 7, 9). We also find an analysis of the 1890 McKinley Tariff (Chapter 8). Although perhaps it falls short of author's own "universalistic ambitions", the book also provides some insight into third states' reactions to this debate in Australia and Canada (Chapter 6).

Whether the proof for the conspiracy argument is satisfactory or not from the strictly historical perspective,²⁰ this book constitutes a source of inspiration to those interested in international law, international relations, and international economics. By showing "how ideas have helped shape local and global history",²¹ it reminds readers that a coherent narrative describing the linear development of law or politics is always a product of posterity, thus filtering past actions, events and opinions through one's own experiences.²² Firstly, it compels readers to critically reassess what is taken for granted in the discussion on international economic regulation, which is especially pertinent in times when even the IMF, the World Bank and the WTO are cautiously re-examining their long-standing regulatory philosophies. Secondly, whereas conspiracy believers are hardly the type to be convinced by rational arguments it may be reassuring to see, at least for the simplified general discourse about economic globalisation, how similarly unfounded fears already framed debates in the 19th century. Whereas a lecture consisting of over 300 pages of dense historical analysis is not a quick read or an easy supplement to one's legal studies, for anyone hoping to gain broader understanding of the globalisation debate this book deserves, at the very least, a careful read-through.

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¹⁸ *Ibidem*, p. XV.

¹⁹ *Ibidem*, p. XX.

²⁰ Review by D. Kölling, in: 2 Global Histories 96 (2016).

²¹ Palen, *supra* note 6, p. 268.

²² L. Stomma, *A jeśli było inaczej... Antropologia historii* [If it was otherwise... Anthropology of history], Wydawnictwo Sens, Trzebiatów: 2008.

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