



Populism and the Economics of Antitrust

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THE INTERCONNECTEDNESS OF ECONOMIC AND POLITICAL POPULISMS

Dani Rodrik outlines a distinction between “economic populism” and “political populism”. Economic populism, he argues (Rodrik, 2018, p. 196), despises institutional and regulatory restraints on economic policy as narrowing excessively available policy options in the pursuit of the common interest—the “general will” in Rousseauist language (Fleschi, 2004, p. 142; Gidron & Bonikowski, 2014, p. 6; Williams, 2010). This economic populism, however, disliked by economists “for good reason” (Rodrik, 2018, p. 196), is two-fold. The first dimension of economic populism pertains to the attempt to scrap desirable restraints imposed on power-holders to prevent them from pursuing “short-sighted policies” given the high discount rates of politicians (Rodrik, 2018, p. 197). As an illustration, the regulatory constraints underpinning the independence of monetary policies represent a desirable barrier to the prevention of economic populism.

On the contrary, the other dimension of economic populism pertains to the attempt to scrap undesirable restraints entrenched by special-interest groups generating benefits for their members but harm to the entire society (Rodrik, 2018, p. 197). As an illustration, the drawbacks brought about by the very independent monetary policies carried out since the 1980s focusing excessively

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on low inflation are evidence of the excessively delegated rules which harm society. Equally, trade agreement rules captured by special interest groups stifle global welfare inasmuch as institutionalized arbitration mechanisms may only benefit disenfranchised economies in expense of the same global welfare (Cottier, 2018; Rodrik, 2018, p. 198). Economic populism thereby becomes advisable whenever a contextual analysis of rising political populism pairs with excessive and lasting policy autonomy (Rodrik, 2018, pp. 198–199).

Therefore, economic populism is not necessarily bad, Rodrik argues, because the latter set of constraints that economic populism wishes to wave “may in fact be the only way to forestall its much more dangerous cousin, political populism” (Rodrik, 2018, p. 199). Although delineations between economic populism and political populism can undoubtedly be drawn, economic populism may not forestall political populism but rather may foretell the advent of its “dangerous cousin”, political populism.

First, economic populism inevitably conduces to political populism (a). Second, political populism is itself the prerequisite to economic populism (b). Therefore, this mutual reinforcing relationship between the two legs upon which populism rests—economic and political variances—is both historically and prospectively confirmed. As a consequence, tackling the economic seeds of political populism appears both necessary and preceding any effective attempt to tackle political populism.

From Political Demagoguery to Economic Policy

The populist style is engrained with demagogic rhetoric made of diatribes against the political establishment—be they politicians, institutions, agencies, political parties. The designation of the political establishment as the cause of all the problems endured by the “plain people” constitutes an essential feature of this political demagoguery (Eatwell & Goodwin, 2018, pp. 44–47). The “true”, “pure” or “real” people designated by the discourses of populist leaders represent the voiceless, the silent majority of citizens who feel as though they are unheard, marginalized and powerless under the current political and economic system (Jagers & Walgrave, 2007). This rhetoric targets not only the political elite but also the “global elite” as the threats to the welfare and well-being of the “real people” (Elchardus & Spruyt, 2016, p. 114; Hawkins, 2009, p. 3; Mudde, 2007, p. 23). Populists capitalize on these divides in society through exaggerations and popular anxieties (Hofstadter, 1962). Thus, by designating the global elite as being responsible for the current political and economic lost system of liberal democracies, the populist leaders are able to vilipend the defective political system and the flawed economic policies enforced by this consensual establishment. Against mainstream ideas conveyed by the global establishment, national populists are able to construe a reactionary nostalgia (see Betz & Oswald in this volume).

Against the so-called all-embracing “oligarchy” composed of political and economic elites (Fleschi, 2004, p. 142), populist leaders draw a direct link

between the corrupt, self-interested political elite and the economic choices this elite perpetuates against the powerless masses. Removing the political elite thus becomes the prerequisite to foresee changes in economic policies. On the other hand, a more popular economic policy aimed at protecting the “plain people” can only come to the fore thanks to the “new” populist leaders propelled to power because they are charismatic demagogues (Eatwell & Goodwin, 2018, pp. 61–62; Laclau, 1977).

Embodying a “thin ideology” (Stanley, 2008), populism is essentially made of demagogic discourses (Bonikowski, 2016; Elchardus & Spruyt, 2016). The rhetoric of populism is designed to address the difficulties faced by the hard working-class deprived of any consideration by the elite. Right-wing populists stress that these economic difficulties come from globalized threats such as immigration. Left-wing populists lampoon the globalized *laissez-faire* (free trade and free markets). But, as rightly pointed out by Roger Eatwell and Matthew Goodwin (2018, p. 47), “both left-wing and right-wing populists promise to give a voice to ordinary people and curb powerful elites who threaten their interests [...] But [...] it is not always easy to attach neat labels to ‘right-wing’ populists, who increasingly share concerns about socio-economic inequalities, but in particular how they apply to whites”. Unquestionably, the socio-economic resentment of being left behind strongly fuel both right-wing and left-wing populisms so that such distinction, as well as the distinction between economic and political populisms, are not satisfactory (Akkerman et al., 2013). Rather, an inextricable tie can be found between both left-wing and right-wing populisms as well as between economic and political populisms.

From Economic Populism to Political Authoritarianism

Left-wing populism shares with right-wing populism a tendency to erect protectionist barriers (if not attaining autarchy [Pappas, 2016]) which is grounded in xenophobia and nationalism (right-wing populism) or conducive to xenophobic and nationalistic resentments (left-wing populism). Also, political populism (as illustrated by white supremacism, Islamophobia, anti-semitism, anti-elitist, anti-foreigners, anti-intellectuals) can only be addressed through the correction of (sometimes perceived) economic injustices (Magni, 2017; Rodrik, 2017, p. 14). The redistribution of (political and economic) power and wealth shall come from some categories of individuals (e.g. big corporations, wealthy classes...who are the “oligarchs”; e.g. assets of Muslims, Jews, foreigners...who are insufficiently nationalistic) to the “real people”—the “white” in West or the native people in other parts of the world. One can wonder how such tax-and-transfer economic policy (if not upfront seizing) of economic properties from some minorities to the majority of the people can take place without violence and complains legitimately voiced by these minorities. The violation of minorities’ rights through violent and authoritarian means appears inevitable (Norris, 2019; Pappas, 2016). Pinochet’s

regime provides a powerful illustration of the fact that the apparently economically liberal policies required authoritarian means, thereby paving the way for the inevitable political illiberalism (or populism) of this ill-fated regime. Thus, economic populism can only be achieved through a “new” institutional and political system wherein violence and authoritarianism are effectively enforced in order to thwart minorities’ rights, to shun the free press and to dodge the deliberative democratic process (Altemeyer, 1996).

Flourishing in a new *Zeitgeist* (Mudde, 2004), across-the-globe populisms are fundamentally illiberal—against parliamentary democracy as well as against free markets and free trade, against an independent judiciary as well as against free press, free competition and free enterprise, against open-mindedness and cultural diversity and against economic globalization and free innovation (Krastev, 2007; Pappas, 2012). Populism favors nostalgia over innovation, nationalism over regionalism or globalism, referenda over elections, *Realpolitik* over cooperation...—in short, populism scorns the rule of law and prefers discretionary politics.

In conclusion, populism can be defined as a state of illiberal democracy whereby both political liberalism and economic liberalism are eschewed, albeit with variances in degrees and priorities, and whereby charismatically demagogic rulers invoke democratic support via the general will.

ECONOMIC ANTHROPOLOGY OF POPULISM

Disenfranchisement and Injustice

The “little guy” feels that the big and powerful have gained from the economic development not on the basis of their merits, not because of their virtues, but rather because of this closely-knit group which self-protects their own interests at the expense of the voiceless majority (Kazin, 1995, p. 1; Magni, 2017; Rodrik, 2017). This group to blame has got a name: the elite (Geahigan, 1985; Hayward, 1996; Iakhnis et al., 2018; Smith, 1981, 1982). As there cannot be populism without a foe, the elite constitutes the necessary and “basic antagonism” (Judis, 2016, p. 15) needed for populists who perceive it as a powerful group of conspirators doing the people harm.

Populism can only flourish in times of economic crisis—thereby evidencing the economic roots of any populism (Eichengreen, 2018, p. x; Judis, 2016). These economic crises weigh heavily on households which cannot make ends meet and who undeniably start thinking that redistributive justice from the wealthy to the middle-popular classes is ineffective and yet imperative (Akkerman et al., 2013). Middle-income classes believe that populist leaders are the only democratic candidates able to address their concerns by tackling the wealthy and big corporations (Lowndes, 2017). Middle-income citizens feel disenfranchised by the market economy which has not delivered on the promises formulated by the political elite. Be it in Europe or in the US, or in any Western democracies, the market economy, it is believed, has failed

to ensure what Amartya Sen would describe as “capabilities” (Pettit, 2001; Robeyns, 2011; Sen, 1985, 1992, 1999): powerless and voiceless, the hard-working middle class has not yet reaped off the expected benefits of global capitalism (Peters, 2017).

As populism thrives upon the “broken promises of democracy”, it can be argued that economic populism thrives upon the broken promises of capitalism. Laypeople feel disenfranchised due to their inability to compete with low-income developing countries which represent some “social dumping” and threaten their standards of living. Evidenced by numerous polls, this shared feeling constitutes the crux of the mobilizing power upon which populism prospers (Akkerman et al., 2013; Woertz, 2017). Unsurprisingly, this economic disenfranchisement pertains to the very essence of justice—the situation faced, or likely to be faced, by hard-working middle-class individuals is perceived as unjust (Gidron & Bonikowski, 2014). This injustice lays upon a remarkably simple, yet fundamental, principle of the market economy—competition based on merits. This perceived lack of meritorious competition is double-edged: it rests upon the unfair competition brought about by both external and internal forces.

On the external drivers of unfair competition, foreign workers are considered not to be competing on the basis of their merits but through a regulatory race to the bottom, and thus, an unfair competition on social and environmental standards (Lamp, 2018; Paul, 1994, 2015)—so-called “social dumping” (Elmslie & Milberg, 1996, p. 51; Rodrik, 2018, pp. 13–16). Gains from trade are hypothetically redistributed in order to compensate the losers—*i.e.* those unable to cope up with capital intensive technology, innovation-driven business models and cost-savings business strategies (Lamp, 2018; Shaffer, 2019). However, this hypothetical compensation does effectively never occur in a sovereign States-dominated global community wherein no such tax-and-transfer has ever been designed overall, let alone be enforced by the authority of law (Paul, 2015; Rodrik, 2018, pp. 10–12). Cottier (2018, p. 8) argues that the “surge of populism can only be explained by fatal omissions in past domestic and international policy, and it would be expected that these omissions will be proactively addressed by the new bilateralism”, as opposed to the mainstream multilateralism prevalent until now. The unfair competition that “social dumping” constitutes provides for voters the chief rationale to resort to populist answers—a stringent reality particularly within the European Union (Alber & Standing, 2000; Bernaciak, 2012; Eurofound, 2016; Mosley, 1995).

On the internal drivers of unfair competition, wealthy individuals and big corporations are increasingly perceived as taking the lion’s shares of the national economy, of fully benefitting from the global economy, without reasonable treble gains being passed onto lower income classes and onto small businesses. The populist backlash essentially results from the sense of economic injustice as illustrated by the famous 1892 Omaha Platform with which the US People’s Party (“*The Populists*”) stated:

We charge that the controlling influences dominating both these parties have permitted the existing dreadful conditions to develop without serious effort to prevent or restrain them. Neither do they now promise us any substantial reform. They have agreed together to ignore, in the coming campaign, every issue but one. They propose to drown the outcries of a plundered people with the uproar of a sham battle over the tariff, so that capitalists, corporations, national banks, rings, trusts, watered stock, the demonetization of silver and the oppressions of the usurers may all be lost sight of. They propose to sacrifice our homes, lives, and children on the altar of mammon; to destroy the multitude in order to secure corruption funds from the millionaires.

From the second half of the nineteenth century populism to the New Deal's form of "neo-Populism", America has experienced decades of tradition of economic populism which has vividly been revived by Donald Trump as a campaigner and as a President (Inglehart & Norris, 2016). By 2016, with Trump's election, "America was thus ripe for a populist insurrection. Growth had slowed. Inequality has risen. Globalization and automation heightened insecurity for workers lacking vocational training, trade union funds, or an extensive insurance state on which to fall back. A financial crisis undermined faith in the competence and integrity of decision makers" (Eichengreen, 2018, p. 117).

More generally, in all Western democracies, the sentiment of disenfranchisement due to economic injustice caused by the big and powerful (corporations and individuals) is constitutive of the main divides exploited by the populists: small versus big, us versus others (Gidron & Bonikowski, 2014).

Small v Big, Us v Others

In this quest for a greater decentralization of economic and political power as well as for a more forceful redistributive justice system, the defense of small firms appears to be the best way to fulfill the needs of the laypeople against those of the detached powerful CEOs and other corporate globalists.

Indeed, economic populism has consistently thrived upon the opposition between small shops versus big corporations, between local boutiques versus globalized firms. Economic populism is currently being revived upon these premises. One of the most vocal campaigners of the 1890 US elections, the year of the passing of the Sherman Act, Mrs. Mary Elizabeth Lease of Kansas is reputed to have said:

Wall Street owns the country. It is no longer a government of the people, by the people and for the people, but a government of Wall Street, by Wall Street and for Wall Street. The great common people of this country are slaves, and monopoly is the master (...) The parties lie to us and the political speakers misled us (...) The common people are robbed to enrich their master (...) There are thirty men in the United States whose aggregate wealth is over one of one-half billion dollars. There are half a million looking for work (...) We

want money, land and transportation. We want the abolition of National Banks, and we want the power to make loans direct to the government (...) The people are at bay, let the bloodhounds of money who have dogged us thus far beware. (quoted in Hicks, 1961, p. 160)

Historically, economic populism championed the anti-bigness sentiment under the veil of protecting small boutiques and farmers in disenfranchised local, rural areas. The thrust of US populism can be recapped, since the birth of the populist party in late nineteenth century, in the words of Ignatius L. Donnelly who wrote the preamble of the St Louis and Omaha Platforms which created the populist party. Indeed, he targeted the so-called plutocrats whose “colossal fortunes, unprecedented in the history of the world, while their possessors despite the republic and endanger the liberty” at the expense of farmers and workers whose “fruits of the toil of millions were boldly stolen” (quoted in Hicks, 1961, p. 405). The essential idea was that of powerful individuals and corporations to be dismantled for the laypeople to make their ends meet. Against big corporate powers, the populist proposals were not so much about breaking up companies but rather the nationalization of the corporations’ assets (with a clear emphasis on railroads companies’ assets): “the land, including all the natural resources of wealth, is the heritage of all the people and should not be monopolized for speculative purposes, and alien ownership of land should be prohibited” (St Louis Platform, February 1892).

Today, populisms vilipend bigness from all fronts. In the US, Trump has ironically claimed that “politicians, the big donors and the special interests have bled this country dry and stripped our middle class and stripped our companies of its jobs and its wealth” (Trump, 2016); the British populist party the UKIP stated that “UKIP is not in the pockets of big businesses and we will make them pay their way” (UKIP, 2017); and the French Front National argued that “the big ones get everything and its always less for the little people and the middle classes” due to the “globalist and multiculturalist ideology” (Ivaldi & Mazzoleni, 2019). The “producerist” features of populist movements exemplify the virtues of small businesses and ordinary entrepreneurs as opposed to the vices of big businesses (Ivaldi & Mazzoleni, 2019, p. 22).

ECONOMIC ANTHROPOLOGY OF ANTITRUST

Populist Roots of Antitrust

“Be afraid of economic ‘bigness’. Be very afraid” argues Tim Wu (2018a) as a leading figure of the resurgence of populist antitrust made possible by today’s big tech companies (Khan, 2016, 2017, 2018, 2019a, 2019b; Khan & Chopra, 2020; Khan & Vaheesan, 2017). This populist tradition of antitrust originates from mid-nineteenth century America’s industrialization which spurred innovation and triggered what was considered as “cut-throat competition” for farmers and small shops: the advent of railroads and refrigerated wagons were disruptive innovations which enabled transportation costs

to tumble, thus allowing for price competition with geographical areas once insulated to emerge. Products and services were delivered to rural areas where farmers started to experience unmatched competition. The innovation, capital investments and corporate power required for the establishment of a network of railroads and of pipelines for the booming oil industry started to dwarf the trivial economic power of dispersed farmers. Farmers felt the need to gather, to consolidate their powers—both economically and politically. Thus, they formed Alliances in different states, with different names, with different priorities, even gathering workers from urban areas with the Knights of Labor.

These grassroots' movements have quickly identified the corporate power of big firms as the source of their troubles: these big corporations grew exponentially, either by internal or by external growth, and abused their corporate power to outcompete farmers with low prices and greater quantity. Thereby, contrary to shared beliefs, the agrarian revolt—the Farmer Movement—which predated the call for aggressive antitrust policy—the Trust Movement—has not emerged out of a lack of competition from the big companies (or trusts), but rather, these movements emerged out of excessive competition—the so-called “cut-throat competition”.

Be that as it may, the Trust Movement flowing out of the Farmers Movement had to have both a political embodiment and a legislative materialization. The political reality of the Trust Movement came to the fore with the “People’s Party” (also designated as “The Populists”): this political party based on populist premises (anti-elite, anti-bigness, anti-free market, anti-representative democracy) had an influential role in the popular demand for introducing federal antitrust laws. The trust movement had already achieved to have twelve US States to pass State antitrust laws (Wu, 2018a). Due to the jurisdictional limits inherent to States laws especially when the matter was to break up the Rockefeller’s Standard Oil Trust located in multiple States, the populists’ representatives claimed that only federal antitrust laws could be of any effect to clamp down the powerful big trusts.

The Populist Revolt has been “defused by freight rate regulation, interest rate regulation, and changes to the gold standard, limited reforms that went some way towards addressing the complaints of farmers and others, together with political reforms such as the referendum processes and direct election of senators advocated by the Populist Party” (Eichengreen, 2018, p. 145). Not less importantly, this Populist Revolt was defused by antitrust regulation: the Sherman Act of 1890. Self-motivated by personal political revenge, Senator John Sherman introduced a Bill at the Senate entitled “A bill to protect trade and commerce against unlawful restraints and monopolies”. The practice of antitrust enforcement has moved away from populism (anti-bigness and legally formalistic assessments) towards a more economic approach to antitrust with the advent of the Chicago School of antitrust in the 60s in the US and in the 90s in Europe (Kovacic, 2003).

Antitrust Cycles

Similar to business cycles, antitrust enforcement has experienced “cycles” under which more economically rational antitrust enforcement has gained and lost importance at different periods (Wright et al., 2019). Interpreted as an adequate vehicle to foster economic efficiency through the consumer welfare standard, antitrust policies have gained more economic expertise at the expense of political partisanship and economically unsound legal formalism. Decades of improvement in designing and enforcing antitrust policies have enabled both US antitrust laws and EU competition laws to export their regimes successfully all over the world, for the benefit of the competitiveness of the world economy (Crane, 2018; Kovacic, 2003).

However, the rise of big tech companies and its populist reactions against globalization have benefitted those who advocate for a return to the early years of the Sherman Act (Khan, 2016, 2018, 2019a, 2019b; Wu, 2018b). Economic experts have been excessively heard, legal standards and presumptions have been excessively discarded, and most importantly, markets have been excessively concentrated at the expense of the laypeople and of the small shops the new antitrust populists argue (Khan, 2019a, 2019b; Wu, 2018a, 2018b). The focus should therefore no longer be on the evidence of the consumer harm in order to allege an anticompetitive conduct, but instead the focus should be on how legitimate the claims of smaller rivals are and how much can we ensure economic decentralization of power through breakups and blocked mergers (Wright & Portuese, 2020). The economic insights learnt for many years need to be discarded as inapplicable to today’s concentrated economy, antitrust populists argue (Wright & Portuese, 2020). This powerful line of advocacy casting away economic experts lies at the heart of economic populism more generally. Some scholars legitimately foresee the coming fall the current populist cycle of antitrust (Crane, 2018; Wright et al., 2019).

TACKLING ANTITRUST POPULISM

Tackling antitrust populism will be achieved by proposing as alternative a robust antitrust policy (Portuese, 2020). Such robust antitrust policy will be situated within the classical liberal framework which is deemed to be the least detrimental system given the informational costs and knowledge problem inherent to antitrust enforcement. Thus, a robust antitrust policy would take seriously the information problem and would ensure that the burden of proof of evidencing the need for regulatory interventionism remains to the plaintiffs (Portuese, 2020).

Anti-experts and the Holistic View

As a premise for tackling antitrust populism, there is a need to rehabilitate the value of experts in antitrust. But these experts are the prime targets of populists

(Portuese, 2020; Schrepel, 2019, p. 61). Populists are aware of the fact that experts are massively scorned by the laymen (Cheng & Hsiaw, 2017). Indeed, people are said to have had “enough of experts”. The anti-expert stance of populism dates back to the famously named nineteenth century US political party “Know-Nothing Party” to Brexiteers’ famous quote (Michael Gove said “*I think the people in this country have had enough of experts*”, Wallace, 2019) through Trump’s former head of the transition team Myron Ebell who once claimed that “the people of America have rejected the expertariat, and I think with good reason because I think the expertariat have been wrong about one thing after another, including climate policy” (quoted Lamberts, 2017). Such “tyranny of experts” (Lieberman, 1970) has been regularly stigmatized as being one of the causes of social problems.

This anti-experts/anti-elite comeback from a rationally designed regulatory framework towards a politically laden antitrust enforcement is currently being praised on both sides of the Atlantic from people with very different backgrounds—from European Ministers to US scholars (Schrepel, 2019; Vaheesan, 2014; Wright & Portuese, 2020). The rationale underpinning populist antitrust to embrace this holistic perspective lies upon the demise of the weight of economic analysis in general (ING, 2017; Romer, 2020), and in antitrust enforcement in particular after a rise of antitrust economics, the populist backlash advocate for a return to antitrust politics, thanks to the weakening of the antitrust agencies’ independence (Giles, 2019; Portuese, 2020; Wallace, 2019). Having departed from the governmental grips in order to acquire a hardly fought independence, antitrust agencies may be subject, according to antitrust populists, to experience the same drawbacks which justified the rise of their independence some decades ago (Schrepel, 2019). Epitomized by the “death of expertise” (Nichols, 2017) in favor of the reign of (party-)politics, this new cycle in antitrust enforcement is nothing other than a return to the governmental grips on antitrust agencies—and onto any regulatory agencies sooner or later since the holistic view of populists cannot admit lack of political control. Richard Hofstadter (1966, p. 34) once wrote that “in the original American populist dream, the omniscience of the common man was fundamental and indispensable. It was believed that he could, without much special preparation, pursue the professions and run the government”. Today, the laypeople’s perceived omniscience entitle themselves to shape antitrust enforcement without further need of experts, for the benefits of a strongly felt popular re-empowerment but highly, probably for the harm of the consumers. Indeed, a hostile antitrust enforcement fraught to political considerations would irremediably neglect the consumer welfare—*i.e.* the standard of reasoning in competition policies (Schrepel, 2019). The appeal for populism appears to make acceptable those economic losses for the sake of perceived political gains of re-empowerment (Gidron & Bonikowski, 2014).

Antitrust experts (mostly, economists) are discarded by populists because of their low esteem among laypeople because they gained an “outsized influence” in antitrust matters (Vaheesan, 2014, p. 400). This anti-expert view

justifies the holistic perspective taken by antitrust populists: antitrust agencies need to be in full control of elected politicians otherwise there would be a “democratic deficit” in antitrust enforcement (Crane, 2008; Khan, 2019b, p. 778). This tenet presupposes that antitrust agencies would lose their hard-fought independences from party-politics (Crane, 2008). Indeed, populism is essentially holistic in the sense that populists want the rulers to be in full control of economic and political leeway in order to fully represent the “real people”. No counter-power, checks and controls are necessary otherwise these are perceived as devised in order to protect some (elitist) interests against the popular interests. Indeed, “in addition to being antielitist, populists are always antipluralist: populist claim that they, and only they, represent the people (...) The core claim of populism is thus a moralized form of antipluralism (...) There can be no populism, in other words, without someone speaking in the name of the people as a whole”. Rosenblum (2008, pp. 25–59) interestingly recaps this idea of holism as fitting the description of any populisms: “Partisans of holism confront both the political pluralism that is the universal circumstance of parties and the actuality of parties. Their party is a means to erase or repress the rest”. Antipartisans, populists would suffer no internal restraints made of separation of powers, regulatory independences, judicial reviews, institutionalized opposition groups, labor unions, and a free press.

How can holism be of relevance to antitrust populism? The holistic apprehension of populists antitrust entails that the existential delegation of powers handed over to autonomous regulatory agencies appears to be both immoral and inefficient—immoral because the will of the people must be represented by elected populist politicians who are the only one bestowed with popular confidence, and inefficient because the unnecessary delegation of powers multiplies the number of actors, the deliberative process, and thereby the length of time needed for decisions to be adopted (Khan, 2019b, p. 778). Consequently, the whole rationale for antitrust agencies to be insulated from party politics appears to become meaningless for antitrust populists.

Indeed, the holistic perspective to antitrust enforcement derails the excess of “technocracy antitrust” (Crane, 2008)—bureaucrats turned enforcers with unaccountable delegation of powers—against “populist antitrust”—democratically elected politicians turned enforcers with direct popular accountability (Khan, 2019b). This blunt opposition appears to be entrenched between an unaccountable technocratic antitrust enforcement made of experts and rational decision-making process with a fully accountable popular antitrust enforcement made of elected politicians receptive of the people’s changing priorities and needs (Crane, 2018). Tackling antitrust populism therefore also means defending antitrust agencies’ independences and the role of experts in these agencies—party-politics and political agenda must be kept at bay from the functioning of antitrust agencies (Crane, 2018).

Anti-unfair Competitiveness—The Industrialist Perspective

Antitrust populism epitomizes a fight against bigness and against experts. It also rests upon a much more legitimate, because economically substantiated, claim that global competition has become unfair. Global competition takes place, it is argued, on unfair premises: trade agreements have been inadequately designed in order to tackle issues of “social dumping” of regulatory standards and unfair competition through State-sponsored enterprises or excessive State aids (Meyer, 2019; Shaffer, 2019). Meyer (2019, pp. 36–37) aptly recaps the history of trade agreements on laypeople by saying that the

theory of ‘trickle down trade liberalization’ did not bear fruit. The liberalized international trading system persistently punished certain individuals and communities, and the government never stepped in with assistance adequate to the challenge. Instead, domestic economic policies in many developed countries, including the United States, failed to deal with economic inequality. In response, voters in developed countries world-wide began to take international trade liberalization and the institutions that support it hostage: negotiate trade agreements that create a more equitable, sustainable international economic system or we will vote to tear the entire house down. The Trump trade wars and Britain’s hurdle toward an immediate and likely highly damaging exit from the European Union are the most visible examples of this crisis, but the strength of far-right parties across Europe testify to the breadth of the sentiment.

Unfair competition out of trade agreements spurs radical popular reactions to which only populists can answer with matching radicalism (Peters, 2017). Thus, the current fate of the globalized economy with a regulatory race to the bottom for the living standards of individuals has fueled, and is likely to continue fueling, economic populism in developed countries (Paul, 1994, 2015; Peters, 2017; Shaffer, 2019). For, there cannot be sound antitrust enforcement and a healthy world competition if countries open trade on unfair competition basis. Fair competition does not necessarily imply income equality: Rodrik rightly points out that “people understand that unequal abilities, effort, or moral deservingness imply that a fair distribution in society would also be unequal” (Rodrik, 2018). Unfair competition is unbearable because unmeritorious rivalry takes place between unashamed cheaters. This needs to be fixed unless populism will continue to prosper. But, the current ill-fated complementarity between antitrust rules and trade rules is partly due to the neglect by the WTO to competition rules since 2004 of the Working Group on the Interaction between Trade and Competition Policy (WGTCP) created in 1996. The WTO indeed has announced that:

In July 2004 the General Council of the WTO decided that the interaction between trade and competition policy (in addition to investment, and transparency in government procurement) would no longer form part of the Work Programme set out in the Doha Ministerial Declaration and therefore that no

work towards negotiations on any of these issues will take place within the WTO during the Doha Round. (WTO, 2020)

What have we done since 2004 to substitute this blatant vacuum and to better address the issues of unfair competition at the trade level with respect to domestic antitrust rules? Not much, and quite nothing (Paul, 2015; Shaffer, 2019). Peoples can be willing to engage in international competition but only on the basis of “fair trade”: regulatory dumping provides for unfair competition and spurs populism (Rodrik, 2019). We need a bold multilateral reform agenda in order to make world antitrust and world trade agreements functioning in symbiosis so that both competition can be maximized and free trade can be further liberalized. The absence of an ambitious world antitrust policy, let alone, agency, can only contribute to both deterrence in embracing free trade and difficulties in keeping at bay populism. In that regard, the bilateral initiative between the EU and China to work on ensuring competition on the merits between the two markets is laudable. Indeed, the Memorandum of Understanding on “a dialogue in the area of the State aid control regime and the Fair Competition Review System” signed on April 9, 2019 is a step in the right direction in absence of multilateral initiatives (DG Comp, 2019). Antitrust populism is no answer domestically in any event but can continue to thrive in the future also because of the legitimate needs to better integrate fair market access provisions into free trade agreements.

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