Abstract

In this chapter I take as my starting point the 2007 entry in the Max Planck Encyclopedia of Public International Law on "Methodology of International Law" by Martti Koskenniemi. Second, I turn to Marx and Engels themselves, who said very little about law, save for a rather pithy 1887 article by Friedrich Engels and Karl Kautsky on "Juridical Socialism" , and, to my knowledge, nothing at all about international law. Indeed, Marx declared famously that if anything was certain, he was not a Marxist. Third, I tackle the most impressive attempt to work out a Marxist theory of law, Yevgeny Pashukanis's General Theory of Law and Marxism , as promoted and reinterpreted by China Miéville and Robert Knox. Fourth, I turn to the recent work of B. S. Chimni, with his Integrated Marxist Approach to International Law, IMAIL, before concluding with some thoughts of my own. It is my contention throughout that while scholars who identify as Marxist wrote about international law, and some, particularly Chimni, have sought to outline a Marxist course in international law, a Marxist methodology is almost always nowhere to be found. Instead, as Marx and Engels themselves insisted, legal demands are an essential weapon in the class struggle, but there can be no socialist law or indeed socialist legal theory.

Key words (phrases)

Marxism

Commodity Form Theory

Indeterminacy

Class struggle

Pashukanis

Chimni

Handbook on international law methodologies, Nicholas Tsagourias

"Marxist international law methodology?"

Professor Bill Bowring, Birkbeck College

Introduction

Methodologies of international law often have their foundations in ideological positions. Positivism is the best known, and one of positivism's leading competitors is the "New Haven" or policy-oriented approach[1], while another is social constructivism[2], to which a number of prominent international law scholars have subscribed[3]. There are now a number of scholars who identify as Marxist. Their work is summarised by Robert Knox in his comprehensive 2018 entry in the *Oxford Bibliographies*, "Marxist Approaches to International Law".[4] He and I both had chapters ten years earlier in Susan Marks's 2008 *International Law on the Left: Re-examining Marxist Legacies*.[5]

But this is a chapter which does not focus on approaches, or on legacies, but on methodology. In his entry, Robert Knox states that "In Marxist international legal scholarship, one can observe a number of recurring themes. These themes are closely linked to the methodological, theoretical and—crucially—*political* positions of the Marxist tradition." This is his only reference to methodology. What if any were the methodological positions of the Marxist tradition?

Indeed, it could be said that most international legal practitioners, and many scholars of international law, do without an overt methodology, without any noticeable adverse side-effects.

Fortunately, I am able in this chapter to take as my starting point the 2007 entry in the *Max Planck Encyclopedia of Public International Law* on "Methodology of International Law" by Martti Koskenniemi.[6] Second, I turn to Marx and Engels themselves, who said very little about law, save for a rather pithy 1887 article by Friedrich Engels and Karl Kautsky on

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[1] For an incisive critique, see B. S. Chimni *International Law and World Order: A Critique of Contemporary Approaches* (Cambridge University Press, 2nd edition, 2017),
[2] Christian Reus-Smit (ed) *The Politics of International Law* (Cambridge: Cambridge University Press, 2004)
[3] Notably Dino Kritsiotis, Antony Anghie and Nicholas Wheeler. For my own critique, see Bill Bowring "What is Realism in International Law and Human Rights?" in Jonathan Joseph and Colin Wight (eds) *Scientific Realism and International Relations* (Palgrave Macmillan, 2010) pp. 101-114
[4] At https://www.oxfordbibliographies.com/view/document/obo-9780199796953/obo-9780199796953-0163.xml - requires a subscription or log-in. Knox deals in turn with *Marx and Engels*: Soviet Approaches; *Approaches*: Commodity-Form Theory; Hegemony, Ideology, and Ideology Critique; Third Worldism; Class-Struggle Approaches; *Themes*: History; Colonialism, Imperialism, and Race; Reform or Revolution; *Legal areas*: International Criminal Law; Use of Force; International Economic Law and Development; Global Constitutionalism and the Rule of Law; Corporations; Human Rights.
[5] Susan Marks (editor) *International Law on the Left: Re-examining Marxist Legacies* (Cambridge: Cambridge University Press, 2008)
[6] At https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1440, requires a subscription or log-in

"Juridical Socialism"[7], and, to my knowledge, nothing at all about international law. Indeed, Marx declared famously that if anything was certain, he was not a Marxist.

Third, I tackle the most impressive attempt to work out a Marxist theory of law, Yevgeny Pashukanis's *General Theory of Law and Marxism*[8], as promoted and reinterpreted by Robert Knox and China Miéville.

Fourth, I turn to the recent work of B. S. Chimni, with his Integrated Marxist Approach to International Law, IMAIL, before concluding with some thoughts of my own.

It is my contention throughout that while scholars who identify as Marxist wrote about international law, and some, particularly Chimni, have sought to outline a Marxist course in international law, a Marxist methodology is almost always nowhere to be found. Instead, as Marx and Engels themselves insisted, legal demands are an essential weapon in the class struggle, but there can be no socialist law or indeed socialist legal theory.

Methodology of International Law – Martti Koskenniemi

It is significant for this chapter that Martti Koskenniemi is both a high level practitioner, and a leading critical legal scholar[9]. He served in the Finnish Diplomatic Service from 1978 to 1996, lastly as director of the Division of International Law. He was Finland's counsel in the International Court of Justice in the *Passage through the Great Belt case (Finland v. Denmark)* case (1991–1992). From 1997 to 2003 he served as a judge in the administrative tribunal of the Asian Development Bank, and was a member of the International Law Commission from 2002–2006, writing a major report on *Fragmentation of International Law*.[10]

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[7] Friedrich Engels and Karl Kautsky "Juridical Socialism" 7:2 (1977) *Politics and Society* pp.203-220; "Juristen-Socialismus" Die Neue Zeit, 1887, no.2 (Stuttgart), translated by Piers Byrne. Byrne explained that this was one of a series of articles confronting reformist tendencies in German Social Democracy, in this case the legalistic demands for social reform made by the Austrian jurist Anton Menger. The original manuscript was prepared by Engels in October 1886, but when he became ill he suggested that the article be completed by the editor of *Die Neue Zeit*, Karl Kautsky. See Piers Beirne, "Introduction to 'Juridical Socialism'" 7:2 (1977) *Politics & Society* 199-201

[8] *Obshchaia teoriia prava i marksizm: Opyt kritiki osnovnykh iuridicheskikh poniatii* (1924), Sotsiahsticheskoi Akademii, Moscow, 1st edition. In English in *Evgeny Pashukanis, Selected Writings on Marxism and Law* (eds. P. Beirne & R. Sharlet), London & New York 1980, pp.32-131. Translated by Peter B. Maggs. In 1987 another edition and translation appeared: *Law and Marxism: A General Theory*, (London: Pluto Press, 1987) translated by Barbara Einhorn, edited and introduced by Christopher J. Arthur

[9] See Bill Bowring "Critical Legal Theory and International Law" in Emilios Christodoulidis, Ruth Dukes, Marco Goldoni (eds) *Research Handbook on Critical Legal Theory* (Edward Elgar 2019), pp.495-508

[10] Fragmentation of International Law: Difficulties Arising From the Diversification and Expansion of International Law. Report of the Study Group of the International Law Commission. 13 April 2006. Finalized by Martti Koskenniemi, at https://legal.un.org/ilc/documentation/english/a_cn4_l682.pdf , And see Tomer Broude "Keep Calm and Carry On: Martti Koskenniemi and the Fragmentation of International Law" (May 1, 2013). ILF Research Paper No. 10-13. 27(2) (2013) *Temple International & Comparative Law Journal*.

He is the author of *The Gentle Civiliser of Nations: The Rise and Fall of International Law 1870-1960*[11], published in 2001. In 2008[12] he summed up the story he had told "… of international law's emergence as part of liberal modernity in the latter half of the nineteenth century. That it has been a part of 'modernity' has meant that it has been animated by a progressive and universalistic spirit, firm confidence in the ability of liberal political institutions to transform the world into a democratic rule-governed Kantian *Völkerstaat.*"[13] He is best known for his insistence on law's indeterminacy. Though there would be no point in being a practitioner if the result was always determined beforehand.

It can be no surprise, then, that Koskenniemi's starting point in his entry on "Methodology of International Law" in the Max Planck Encyclopedia is that "International Law is an argumentative practice. It is about persuading target audiences such as courts, colleagues, politicians and readers of legal texts about the legal correctness… of the position one defends," Note that courts come first and readers of legal texts last. Therefore "The methodology of international law is best seen as being about criteria that legal arguments ought typically to fulfil in different contexts – including the academic context – in order to seem plausible."

Koskenniemi acknowledges that an appeal to international law, especially against the brute force of state power, must be able to appeal to a standpoint outside or above sovereign power. If such a standpoint relies on ideas such as justice, self-determination, human rights or peace, then the plausibility of any arguments depends on highly contested political and moral concepts. Thus "The technique of legal sources intervenes precisely to protect professional arguments from the critique of being too political because dependent on unverifiable abstractions." In fact, Koskenniemi appears to be rather dismissive of legal method or methodology except as it serves the purposes of effective argumentation. He asserts that "Much of what passes for legal method has to do with the development of chains of argument that refer back to formal legal sources of international law." Which is why all students of

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Available at SSRN: https://ssrn.com/abstract=2297626. Also Sean D. Murphy "Deconstructing F Deconstructing Fragmentation: Koskenniemi's 2006 ILC Project", 27 (2013) *Temple International & Comparative Law Journal*, https://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=2207&context=faculty_publications

[11] Martti Koskenniemi *The Gentle Civiliser of Nations: The Rise and Fall of International Law 1870-1960* (Cambridge: Cambridge University Press, 2001)

[12] Martti Koskenniemi "What should international lawyers learn from Karl Marx?" in Susan Marks (ed) *International Law on the Left. Re-examining Marxist Legacies* (Cambridge: Cambridge University Press, 2008), 30-52

[13] Ibid, p.30-31

Public International Law must start with the 1920 Statute of the Permanent Court of International Justice, which was later preserved – antiquated language and all - in Article 38(1) of the 1946 Statute of the International Court of Justice.[14] Koskenniemi examines the "finely tuned argumentative methodology" based either on State consent or an appeal to consensual principles such as good faith, equity and reasonableness. This enables him to identify the "methodological competence" of lawyers as the ability to identify the professional consensus or preference and "gear the argument" so as to appear to meet it. This is of course for the benefit of the audience, most likely a court, and knowledge of its preferences will be crucial.

So after providing an effective (in my view) critique of "sociological jurisprudence", "policy-approach, instrumentalism, legal engineering", and formalism, Koskenniemi returns to his starting point: "The basic methodological question remains: How to convince *this audience, here and now?*". On this basis a specifically Marxist methodology (whatever that might be) is ruled out from the start.

The closest Koskenniemi has come (to my knowledge) to Marxism was his 2008 chapter "What should international lawyers learn from Karl Marx?".[15], for Susan Marks's collection on "re-examining Marxist legacies". His starting point was quite rightly that he was not writing as a Marxist. Marx, he emphasises, would not have written about justice or injustice, and only then with the greatest reluctance.[16] "For him, notions such as 'justice' and of course 'international law' – had he given it a second's thought, which he never did – were part of the problem, not of its resolution."[17] Koskenniemi compares what he takes to be Marx's "dialectics" with deconstruction, and introduces "indeterminacy", a term prominent in critical legal theory, and for which he is best known. He says:

> The move in thinking from a logic of identity for which the dichotomies of law are fatal, into dialectics that uses the dichotomies as frameworks for historical explanation is what lawyers should learn from Marx – just as they should today accept the indeterminacy of each such framework, that is, unlearn the essentialism through which Marxism and subsequent realisms thought about them.[18]

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[14] https://www.icj-cij.org/en/statute
[15] Martti Koskenniemi "What should international lawyers learn from Karl Marx?" in Susan Marks (ed) *International Law on the Left. Re-examining Marxist Legacies* (Cambridge: Cambridge University Press, 2008), 30-52
[16] He cites Stephen Lukes *Marxism and Morality* (Oxford: Oxford University Press, 1985), 48-70
[17] Ibid, p.31
[18] Ibid, p.44

This passage is hardly a prescription for a methodology for international law. Koskenniemi concludes that international lawyers can, "… learning from Marx, … see international law's emancipatory promise." But as he already pointed out, Marx did not think about international law at all.

I turn therefore to what Marx and his close colleague and comrade Engels actually said.

Marx, Engels, and "Marxism" – and international law

In his 1865 "confession", a form popular at the time, Marx wrote that his motto was *De omnibus dubitandum* (doubt everything).[19] Marx's chosen method was immanent critique, to criticise an object 'on its own terms'[20], and his most famous book does not set out a philosophical system, and is no kind of a textbook on economics. Instead, it is a "critique of political economy", building on and taking to and beyond their limits the classical economists, the materialist Adam Smith (1723-1790) and David Ricardo (1772–1823), with his "labour theory of value". That is the same procedure to which Marx subjected Hegel, especially in his 1843 manuscript "Hegel's Philosophy of Right" (Zur Kritik der Hegelschen Rechtsphilosophie).

First of all, the notion that Marx created a system should be disposed of.

In May 1880 the French workers' leader Jules Guesde came to visit Marx in London, and together they drafted the Programme of the French *Parti Ouvrier*, Labour Party. The Preamble was dictated by Marx himself, while the other two parts of minimum political and economic demands were formulated by Marx and Guesde, with assistance from Engels and Marx's son in law Paul Lafargue, who with Guesde was to become a leading figure in the Marxist wing of French socialism. The programme was adopted, with certain amendments, by the founding congress of the *Parti Ouvrier* at Le Havre in November 1880[21].

After the programme was agreed, however, a clash arose between Marx and his French supporters over the purpose of the "minimum section". Marx saw this as a practical means of agitation around demands that were achievable within the framework of capitalism. It is notable that the minimum economic demands are explicitly legal demands.[22]

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[19] At https://www.marxists.org/archive/marx/works/1865/04/01.htm; and W. Blumenberg "Ein unbekanntes Kapitel aus Marx' Leben" 1(1) (1956) *International Review of Social History*, 54-111, in English

[20] See, for example, James Gordon Finlayson "Hegel, Adorno and the origins of immanent criticism". 22(6) (2014) *British Journal for the History of Philosophy*,. 1142-1166, 1143

[21] See https://www.marxists.org/archive/marx/works/1880/05/parti-ouvrier.htm, editorial note

[22] The first seven "minimum economic demands" were:

Guesde took a very different view. Discounting the possibility of obtaining these reforms from the bourgeoisie, Guesde regarded them not as a practical programme of struggle, but simply as bait with which to lure the workers from Radicalism. The rejection of these reforms would, Guesde believed, "free the proletariat of its last reformist illusions and convince it of the impossibility of avoiding a workers '89."[23] Marx accused Guesde and Lafargue of "revolutionary phrase-mongering" and of denying the value of reformist struggles. [24]

Marx is reported – by Engels – to have shown his impatience by saying to Lafargue: 'Ce qu'il y a de certain c'est que moi, je ne suis pas Marxiste.' [If anything is certain, it is that I myself am not a Marxist][25]. The contemporary German Marx scholar, Michael Heinrich, in a short article entitled "Je ne suis pas Marxiste"[26], expressed the following opinion, with which I agree:

> Marx himself, in any case, did not seek final certainties. He was far more interested in the critical business of undermining certainties in order to open up new spaces for thought and action – in which it's not immediately clear what the correct result will be.
>
> In contrast to the "Marxism" that Marx rejected, with its identity-defining certainties, this critical, unfinished Marx has an extremely stimulating and subversive effect. Which of his analyses and concepts are useful, what can help to change the world, and what can't, is not fixed for all time. One will always have to constantly discuss and make new judgements: "De omnibus dubitandum."

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1. One rest day each week or legal ban on employers imposing work more than six days out of seven. - Legal reduction of the working day to eight hours for adults. - A ban on children under fourteen years working in private workshops; and, between fourteen and sixteen years, reduction of the working day from eight to six hours;
2. Protective supervision of apprentices by the workers' organizations;
3. Legal minimum wage, determined each year according to the local price of food, by a workers' statistical commission;
4. Legal prohibition of bosses employing foreign workers at a wage less than that of French workers;
5. Equal pay for equal work, for workers of both sexes;
6. Scientific and professional instruction of all children, with their maintenance the responsibility of society, represented by the state and the Commune;
7. Responsibility of society for the old and the disabled;

[23] Jules Guesde caused a scandal by describing in 1883 the Great Revolution of 1789 as "thievery". See Jean-Numa Ducange *Jules Guesde: the Birth of Socialism and Marxism in France* (London, Palgrave Macmillan: 2020) p.33

[24] Bernard H. Moss, *The Origins of the French Labour Movement. The Socialism of Skilled Workers 1830-1914,* (University of California Press 1976), p.107.

[25] Engels To Eduard Bernstein In Zurich, London, 9 August 1882, MECW Volume 46, p. 353; First published: in full, in Marx Engels Archives, Moscow, 1924; https://marxists.catbull.com/archive/marx/works/1882/letters/82_11_02.htm

[26] Michael Heinrich, April 2015: "Je ne suis pas Marxiste", at https://libcom.org/library/%E2%80%9Eje-ne-suis-pas-marxiste%E2%80%9C

Furthermore, Marx had very little to say about law constructed by humans as such.[27] His attitude to (man-made) law remained consistent throughout his life.

In the 1857 *Introduction* to the *Grundrisse*, he wrote for the first time about "human laws" – as opposed to laws of nature, or the "law of value" which plays an important role in his critique of political economy[28]:

> Quite apart from this crude tearing-apart of production and distribution and of their real relationship, it must be apparent from the outset that, no matter how differently distribution may have been arranged in different stages of social development, it must be possible here also, just as with production, to single out common characteristics, and just as possible to confound or to extinguish all historic differences under *general human* laws. For example, the slave, the serf and the wage labourer all receive a quantity of food which makes it possible for them to exist as slaves, as serfs, as wage labourers. The conqueror who lives from tribute, or the official who lives from taxes… all receive a quota of social production, which is determined by other laws than that of the slave's, etc.
>
> The two main points which all economists cite under this rubric are: (1) property; (2) its protection by courts, police, etc. To this a very short answer may be given: …to 2. Protection of acquisitions etc. When these trivialities are reduced to their real content, they tell more than their preachers know. Namely that every form of production creates its own legal relations, form of government, etc... All the bourgeois economists are aware of is that production can be carried on better under the modern police than e.g. on the principle of might makes right. They forget only that this principle is also a legal relation, and that the right of the stronger prevails in their 'constitutional republics' as well, only in another form.[29]

This is not a crude theory of base and superstructure, or anything like that. For Marx, it is a statement of fact. Law in itself is not interesting to him.

In the Preface to his *A Contribution to the Critique of Political Economy* (*Zur Kritik der Politischen Oekonomie*), published in Berlin in 1859, the text in which his ideas concerning Capital achieved their explicit shape, Marx wrote;

> My inquiry led me to the conclusion that neither legal relations nor political forms could be comprehended whether by themselves or on the basis of a so-called general development of the human mind, but that on the contrary they originate in the material conditions of life, the totality of which Hegel, following the example of English and French thinkers of the eighteenth century, embraces within the term "civil

[27] For a characteristic Soviet presentation of Marx 's "theory of law" see L. S. Mamut "Theory of Law" *Sovetskoye Gosudarstvo i Pravo* (1967) No. 12, in Csaba Varga (ed) *Marxian Legal Theory* (New York: New York University Press, 1993), pp.3-10

[28] See Bill Bowring "The law of value and the law" in Ugo Mattei and John Haskell (eds) *Research Handbook on Political Economy and Law* (Cheltenham: Edward Elgar, 2015), 158-176

[29] Karl Marx *Grundrisse* (translated by Martin Nicolaus) (London: Penguin Books, 1993) pp.87-8

> society"; that the anatomy of this civil society, however, has to be sought in political economy.[30]

Fifteen years later, in his 1875 *Critique of the Gotha Programme*, Marx wrote:

> Do not the bourgeois assert that the present-day distribution is "fair"? And is it not, in fact, the only "fair" distribution on the basis of the present-day mode of production? Are economic relations regulated by legal conceptions, or do not, on the contrary, legal relations arise out of economic ones? Have not also the socialist sectarians the most varied notions about "fair" distribution?[31]

This was one of many points on which Marx and Engels were in complete agreement.

In their 1887 polemic *Juridical Socialism*[32] (the German title, *Juristen-Socialismus*, would be better translated as "Lawyers' Socialism") Friedrich Engels and Karl Kautsky[33] explained – and Marx, who died four years earlier, would not have disagreed - how the main battle cry of the bourgeoisie became "equality before the law", because their struggle had to be based around legalistic demands. "This solidified a world view based on legal rights… at first the proletariat had embraced the world view of legal rights, and sought weapons in it for use against the bourgeoisie."[34]

Engels and Kautsky insisted that "Marx… presents no legalistic demands at all in his theoretical work… Legal rights, which always reflect the economic conditions of a specific society, are treated only in a very secondary manner in Marx's theoretical studies, as opposed to the primary historical topic of situating particular circumstances, means of acquisition, and social classes in specific periods.[35]" But they also insisted that socialists would not fail to present certain legalistic demands: "Every struggling class must therefore formulate its demands as legalistic demands within a program… however, no existing socialist party has thought of making a new legal philosophy of its program, and this will not happen in the future."

Peter Schöttler explained their position as follows:

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[30] Karl Marx *Preface to the Critique of Political Economy* in *Karl Marx Friedrich Engels Collected Works* Vol 29 (London: Lawrence & Wishart, 1987) p.262

[31] Karl Marx *Critique of the Gotha Programme* http://www.marxists.org/archive/marx/works/1875/gotha/ch01.htm (accessed on 29 October 2013)

[32] Friedrich Engels and Karl Kautsky *Juridical Socialism* 7:2 (1977) *Politics and Society* pp.203-220; "Juristen-Socialismus" *Die Neue Zeit,* 1887, no.2 (Stuttgart), translated by Piers Byrne

[33] The translator, Piers Byrne, explained that this was one of a series of articles confronting reformist tendencies in German Social Democracy, in this case the legalistic demands for social reform made by the Austrian jurist Anton Menger. The original manuscript was prepares by Engels in October 1886, but when he became ill he suggested that the article be completed by the editor of *Die Neue Zeit*, Karl Kautsky. See Piers Beirne, "Introduction to 'Juridical Socialism'" 7:2 (1977) *Politics & Society* 199-201

[34] Ibid p.204

[35] Ibid p.212

> "… there is indeed *no* proletarian or socialist legal ideology (just as there can be no *socialist philosophy of law*), but there are proletarian, or socialist, *legal demands*, and these are necessary, nay indispensable, if the proletariat wishes to articulate its interests *politically* in opposition to the bourgeoisie and the bourgeois state. The political class struggle includes making legal demands."[36]

In precisely the same sense, Marx and Engels would have had no difficulty in associating themselves with 20th and 21st century demands framed within the international law right of peoples to self-determination[37].

Yevgeniy Pashukanis and international law

It is not generally known that, like Martti Koskenniemi, Yevgeniy Pashukanis started as a practitioner of international law.

Born in 1891, in 1909 he commenced a study of law in Petersburg, but left Russia for Germany in 1910. He continued his studies at the Ludwig-Maximilians-Universität in Munich, where he specialized in the contemporary philosophy of law, and in political economy. His dissertation was entitled *Statistik der Gesetzwidrigkeit im Arbeitsschutz* (Statistics of legal infractions in labour protection). This was not at all, therefore, a work of legal theory, but an indication of his interest in the workers' movement in Germany.[38] During World War I, he returned to Russia and joined the Bolsheviks, serving as a revolutionary judge.

However, from 1920 to 1923 Pashukanis served in the Peoples' Commissariat for Foreign Affairs, as the deputy head of the Economic Law Department. He was a legal adviser in the Soviet Russian representation in Berlin. For example, on 3 December 1921 he was the author of a telegram to Georgy Chicherin, People's Commissar for Foreign Affairs, on the vexed

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[36] Peter Schöttler "Friedrich Engels and Karl Kautsky as Critics of "Legal Socialism" in Csaba Varga (ed) *Marxian Legal Theory* (New York: New York University Press, 1993), pp.11-42, at p.28-29

[37] See also Bill Bowring "The Soviets and the Right to Self-Determination of the Colonized: Contradictions of Soviet Diplomacy and Foreign Policy in the Era of Decolonization" in Jochen von Bernstorff and Philipp Dann (eds) *The Battle for International Law: South-North Perspectives on the Decolonization Era* (Oxford University Press 2019), pp.404-425; and Bill Bowring "Marx, Engels, and Lenin on the Right of Nations (Peoples) to Self-Determination, and Its Impact on International Law" in Paul O'Connell and Umut Özsu (eds) *Elgar Handbook on Law and Marxism* (Edward Elgar, forthcoming)

[38] Andreas Diers '*Opfer des 'Grossen Terrors': Eine biographische werknotiz zum 75. Todestag von Eugen Paschukanis*' (Victim of the 'Great Terror': a biographical note for the 75th anniversary of the death of Yevgeny Pasukanis), 3 September 2012, at https://www.rosalux.de/fileadmin/rls_uploads/pdfs/sonst_publikationen/Paschukanis_Sept_2012.pdf; see also Andreas Harms *Warenform und Rechtsform. Zur Rechtstheorie von Eugen Paschukanis* (Commodity form and legal form. On the legal theory of Yevgeny Pashukanis) Freiburg: *ça ira Verlag*, Neuauflage 2009

question of "prize ships", and styled himself *временного поверенного* (*vremennovo poverennovo*), Chargé d'Affaires[39].

He was centrally involved in one of first and most important actions of Soviet Russia in the field of international law. Namely the preparation of the Treaty of Rappalo with Germany.[40]

In her monumental account of European history following World War I, Zara Steiner analysed the context of this work.[41] She started with the provisional Russo-German trade agreement of May 1921.[42] According to her, "[it] was Lenin who plotted the strategies pursued at the forthcoming Genoa conference (10 April -19 May 1922), Lloyd George's grand design for the reconstruction of Europe"[43], and Lenin personally recruited the members of the negotiating delegation[44], which included Georgy Chicherin[45], who served as People's Commissar for Foreign Affairs in the Soviet government from March 1918 to 1930, Maxim Litvinov[46], the deputy chief of the Commissariat of Foreign Affairs, and the former organiser of Bolshevik bank robberies, Leonid Krasin[47].

According to Steiner, "It was in the hope of strengthening their negotiating hand that Chicherin and Litvinov stopped in Berlin in early 1922 on their way to Genoa."[48] There they worked very closely with Pashukanis on a number of issues, not only Genoa and Rapallo. The multi-volume *Dokumenty vneshnei politiki SSSR* (Documents of the foreign policy of the USSR – the *Documents*) contains a letter dated 17 March 1922 from Maxim Litvinov to Yevgeny Pashukanis advising him as to how to deal with the reactionary government of

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[39] *Sovetsko-germanskiye otnosheniya ot peregovorov v Brest-Litovske do podpisaniya Rapallskovo dogovora. Sbornik dokumentov.* (Soviet-German relations from the negotiations in Brest-Litovsk to the signing of the Rapallo Treaty. Collected documents.) In two volumes. (Moscow: *Politizdat* 1968-1971) Vol 1: 1917-1918. Vol 2: 1919-1922. At http://militera.lib.ru/docs/da/sov-german/index.html, Document No.236. *Telegramma vremennovo poverennovo v delakh RSFSR v Germanii narodnomu komissaru inostrannikh del RSFSR G V Chicherin* (Telegram from the Chargé d'Affaires in Germany to the people's commissar of foreign affairs of the RSFSR G V Chicherin) 3 December 1921, № К292

[40] See Bill Bowring "Yevgeniy Pashukanis, His Law and Marxism: A General Theory, and the 1922 Treaty of Rapallo between Soviet Russia and Germany" v.19 (2017) *Journal of the History of International Law* pp.274-295

[41] Zara Steiner *The Lights that Failed: European International History 1919-1933* (Oxford: Oxford University Press 2005)

[42] Ibid 161

[43] Ibid 163

[44] Ibid 164

[45] Georgy Vasilyevich Chicherin, 1872-1936, born into an old noble family (related to Pushkin), father was a diplomat, in 1904 transferred his family wealth to the Bolsheviks, was personally very close to Lenin

[46] Maxim Maximovich Litvinov, 1876-1951, born Meir Henoch Wallach-Finkelstein

[47] Leonid Borisovich Krasin, 1870-1926, died in London of a blood disease, 6000 mourners attended his funeral at Golders Green Crematorium

[48] Ibid 165

Admiral Miklós Horthy, who came to power after the downfall in 1920 of the short-lived Hungarian Soviet Republic.[49]

In 2001 the Russian historian of Germany G. M. Sadovaya published *Walter Rathenau and the Rapallo Treaty*.[50] She relates that in February 1922 Soviet-German negotiations started again. However, the Germans did not want to talk about credits for Soviet Russia, referring to their own need for money and their anxiety about interference from the Reparations Commission. But contacts continued. Sadovaya notes that Karl Radek participated in these discussions, together with the representative of Soviet Russia in Germany N. N. Krestinsky, the chairman of the Ukrainian SSR, Kh. G. Rakovsky, and the trade representative of the RSFSR in Berlin, B. S. Stomonyakov[51] - with his adviser, Yevgeniy Pashukanis. Information about the negotiations in January-February 1922 can be found in a number of sources: the letter of G. V. Chicherin of 10 April summarising what was going on; the account of "the Soviet diplomat Ye. V. Pashukanis" and other sources.[52]

Sadovaya relates that on the evening of 1 April 1922 there was a crucial meeting of the Soviet delegation with Radek, Stomonyakov and Pashukanis.[53] They decided to separate negotiations concerning political recognition, from negotiations about possible loans for the RSFSR. It was necessary to include in the political agreement the restoration of diplomatic relations and full mutual withdrawal of claims, including any claims for reparations for damage done to Germany in Russia in the course of nationalisation. It is plain that Pashukanis as Adviser to the Soviet Russian diplomats played a key role in arriving at this decision.

A detailed account of this meeting was given by Pashukanis in his Telegram of 5 April 1922 "from the Adviser of the Representation of the RSFSR in Germany to the Peoples

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[49] *Dokumenty vneshnei politiki SSSR.* (1961)*, Moskva* (*Documents of the foreign policy of the USSR* Volume 5, 1 January 1922 – 19 November 1922 *Moscow: Politicheskoi Literatury,* 1961,156-7, Document No.87

[50] G. M. Sadovaya (2001) *Valter Ratenau i Rapallskiy Dogovor* (Samara: *Samarskiy Universitet* 2001, available at http://refy.ru/71/248883-g-m-sadovaya-valter-ratenau-i-rapallskiy-dogovor.html

[51] Boris Spiridonovich Stomonyakov (1882 to 1940), was an ethnic Bulgarian anti-Tsarist revolutionary who later became a trade representative and diplomat for the USSR the 1920s and 1930s. He was arrested in 1938 and shot in 1940.

[52] Sadovaya draws extensively from *Sovetsko-germanskiye otnosheniya ot peregovorov v Brest-Litovske do podpisaniya Rapallskovo dogovora. Sbornik dokumentov.* (Soviet-German relations from the negotiations in Brest-Litovsk to the signing of the Rapallo Treaty. Collected documents.) In two volumes. (Moscow: *Politizdat*, 1968-1971). Vol 1: 1917-1918. Vol 2: 1919-1922. At http://militera.lib.ru/docs/da/sov-german/index.html

[53] Sadovaya *Valter Ratenau* 2001 (n.23), 56

Commissariat of Foreign Affairs RFSFR".[54] This is also to be found online.[55] The Soviet delegation focused its energy on the attempt to get everything signed before leaving for Genoa. Pashukanis wrote that this question was raised at breakfast with Rathenau and in meetings which took place for almost the whole day on 3 April, from 10 am to 5 pm. In discussion with Rathenau, wrote Pashukanis, a compromise formula began to take on more defined and correct – for the Russian delegation – features. Namely, in the agreement it must be stated that Germany relinquishes all claims relating to nationalisation, on condition that the Soviet Russian side rejects similar claims of other states.

Pashukanis was not only engaged as a legal adviser for treaty negotiations. As he disclosed rather later, in 1930, it was while in Berlin in 1921-22 that he prepared his *A general theory of law and Marxism. An attempt at a critique of fundamental juridical concepts*, which was completed in 1923 and appeared in 1924[56]. This is the text for which he is best known. There are many references in this text to the German legal scholars whom Pashukanis read in Munich and during his time in Berlin.

However, Pashukanis' paramount reason for writing the *General Theory* was to identify "…law in its general definition, law as a form...".[57] Or - what is legal about law. That is, to tackle the question of the nature of law as a materially grounded abstraction. Pashukanis is now best known for his "commodity-form" theory of law, expounded in the *General Theory*, but more recently extended by China Miéville and others to a "commodity-form theory of international law".[58] For this reason Pashukanis was adamantly opposed to the possibility of "socialist law", Under socialism, law would disappear.

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[54] *Documents Foreign Policy* 1961 (n.22), 184-5

[55] *Soviet-German Relations* 1968-1971 (n.26) Volume 2, Document No. 258. Из письма советника представительства РСФСР в Германии заместителю народного комиссара иностранных дел РСФСР Л. М. Карахану, 8 апреля 1922 г., № 438 (From the letter of the adviser to the representation of the RSFSR in Germany to the deputy commissar for foreign affairs of the RSFSR L M Karakhan, 8 April 1922, No.438, available at http://militera.lib.ru/docs/da/sov-german/index.html

[56] Yevgeniy Pashukanis (1924) *Общая теория права и марксизм. Опыт критики основных юридических понятий* (*Obshchaya teoriya prava i marksizm)* A general theory of law and Marxism. An attempt at a critique of fundamental juridical concepts) (Moscow: Communist Academy 1924) (English translation, Ye Pashukanis *Law and Marxism: A General Theory. Towards a Critique of the Fundamental Juridical Concepts* (London: Pluto Press, 1983))

[57] Ibid, 68

[58] For a recent exposition and defence of this theory, see China Miéville 'The Commodity-Form Theory of International Law: An Introduction"' 17(2) (2004) *Leiden Journal of International Law*, 271-302, and China Miéville *Between Equal Rights: A Marxist Theory of International Law* (Leiden: Brill Academic Publishers, 2005), and the review article by Susan Marks "International Judicial Activism and the Commodity Form Theory of International Law" 18(1) (2007) *European Journal of International Law*, 199-211

In the first of several recantations of his work in 1921, published in 1930, Pashukanis wrote the following about the genesis of the *General Theory*:

> It is clear that much which was written in the first years of NEP[59] deserves criticism and suffers from obvious anachronisms and now and then simply mistakes… But the question is not only that of particular formulations. The question concerns some defects of a general character. This was the overestimation of the role and significance of market relations which was without doubt characteristic of my first work. It is impermissible to hide from view the fact that this book was written at a time when the collective of Marxist legal scholars had not come together. It was written when I was alone, and it could not be exposed to the process of critical re-working. It was written finally, before the publication of Lenin's notebooks on dialectics and on the works of Marx which were published in the "Archive"... Therefore it was completely natural, that the book, which was written in 1923, and prepared still earlier in 1920-1921, displays defects, when we look at it from our higher present day theoretical and methodological point of view.[60]

This concerned Pashukanis' theoretical work from 1920 to 1923. Pashukanis became in the next ten years a staunch loyalist of the regime – in my opinion, by conviction rather than any sort of pressure. In 1931, following the dramatic recantation of his previous views noted above, Pashukanis became the Director of the Institute of Soviet Construction and Law of the Communist Academy. He was effectively the USSR's director of legal research and legal education. The American scholar John Hazard[61], who studied under Pashukanis from 1934 to 1937, summarised his effect on legal education, as follows:[62]

> Believing that the state was slowly withering away as socialism came nearer to achievement, Pashukanis advocated the cessation of courses in civil law. He understood civil law to be the regulation of the relations of men under the trading conditions of capitalism, and, as such, no longer of importance, as the remnants of capitalism disappeared.
>
> His influence was so marked that the courses in civil law in the law school were abolished, and to replace them there appeared a course called economic-administrative law, concerning itself with regulation of the relations between state enterprises.[63]

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[59] The New Economic Policy, a partial restoration of capitalist market relations, under state control, was introduced by Lenin in 1921. Despite Lenin's death in 1924 the success of the policy meant that it continued until sharply reversed by Stalin in 1928.

[60] Yevgeniy Pashukanis (1930) "*Polozheniye na teoreticheskom pravovom fronte (The situation on the theoretical legal front)"* 11-12 (1930) *Sovetskoye gosudartsvo i revolutsiya prava* (Soviet state and revolution of law), 16-49, 26

[61] 1909-1955

[62] John Hazard 'Housecleaning in Soviet Law' 1 (1938) *American Quarterly on the Soviet Union* pp.5-16, at http://www.unz.org/Pub/AmQSovietUnion-1938apr-00005?View=PDF; and John Hazard 'Cleansing Soviet International Law of Anti-Marxist Theories' 32(2) (1938) *American Journal of International Law*, 244-252

[63] Hazard *Housecleaning* 1938 (n.70) 13

Following Pashukanis' fall in 1937, courses on (Soviet) civil law were reintroduced to the syllabus.

By 1932, Pashukanis, who had become editor in chief of the official law journal *Soviet State*, was able to write a "hallelujah" in response to Stalin's letter "Some questions on the history of Bolshevism".[64] Pashukanis' major work on international law, *Essays in International Law*, appeared in 1935[65]. Most copies of the *Essays* were destroyed after he was denounced in 1937, but in this culminating work he declared that any attempt to define the "nature of international law" was scholastic.[66] In his view, such attempts were the result of the continuing influence of bourgeois legal methodology, which, he said, rested on the association of law with substance developing in accordance with its own internal principles. That is, law as an autonomous entity.

For Pashukanis, in 1935, international law was a means of formulating and strengthening, in custom and treaties, various political and economic relationships between states; the USSR could use international law to further Soviet interests in the struggle with capitalist states. He saw no reason to believe that in using these principles of international law for its own purposes the USSR was compromising its principles, in a world in which most states were capitalist. In his view there was no point in seeking to determine whether international law was "bourgeois" or "socialist"; such a discussion would be "scholastic".[67] International law was there to be used by the USSR instrumentally. Talk about law's indeterminacy would have been meaningless to him.

This conclusion could be expected from the former legal adviser playing a crucial role in hammering out the treaty between the defeated Germany and the defeated Soviet Russia, a treaty which was of crucial importance to both states.

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[64] Ye Pashukanis '*Pismo tov. Stalina i zadachi teoreticheskovo fronta gosudarstvo i pravo* (The letter of comrade Stalin and the tasks of the theoretical front of state and law)' 1 (1932) *Sovetskoe gosudarstvo* (Soviet State) 4-48, cited in E. A. Skripilev, '*Nashemy zhurnalu – 70 let*" (Our journal is 70 years old)' no. 2 (1987)*Sovetskoye Gosudarstvo i Pravo* (Soviet State and Law) 17.

[65] Ye. Pashukanis, *Ocherki po Mezhdunarodnomu Pravu (Essays in International Law)* (Moscow: Soviet Legislation, 1935)

[66] Cited (16) in John Hazard 'Pashukanis is No Traitor' 51(2) (1957) *American Journal of International Law*, 385-388, 387.

[67] Ibid 387.

An Encyclopedia entry on International Law published in 1925[68] was included in full as an Appendix in China Miéville's *Between Equal Rights*, which is probably the most notable contemporary rehabilitation of Pashukanis.[69] However, Miéville saw clearly that in contrast to the *General Theory,* Pashukanis seemed "to accept the existence of antique international law, and to deny its historical particularity."[70] That is, it would appear according to the *General Theory* that there is no law as such until its appearance under capitalism, and then only private law; but there has been international law throughout recorded history. Pashukanis rejected the positivist arguments of Austin and others that without a sovereign there can be no international law. Even for the young USSR there could be international law. Pashukanis noted that:

> The formalization of our relationship with bourgeois states, by way of treaties, is part of our foreign policy, and is its continuation in a special form. A treaty obligation is nothing other than a special form of the concretization of economic and political relationships. But once the appropriate degree of concretization is reached, it may then be taken into consideration and, within certain limits, studied as a special subject. The reality of this object is no less than the reality of any constitution – both may be overturned by the intrusion of a revolutionary squall.[71]

Pashukanis, unlike later Soviet jurists, did not oppose the existence of customary international law as a source of international law, which, he said, was "…the totality of norms regulating the relationships between states."[72] He continued: "To the extent that states have no external authority above them which could establish their norms of conduct, then in the technical legal sense the sources of international law are custom and treaty."[73] As an international legal practitioner, an author of the Rapallo Treaty, Pashukanis was perfectly comfortable with orthodox conceptions of international law. He did not attempt a "commodity-form theory" of international law, nor in my view does Miéville really seek to expound such a theory either in his 2004 article or 2005 book.

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[68] "Mezhdunarodnoe pravo" (International law), in *Entsiklopediia gosudarstva i prava* (1925-1926), (lzdatelstvo Kommunisticheskoi akademii), Moscow, vol.2, pp.858-874; English translation in *Evgeny Pashukanis, Selected Writings on Marxism and Law* (eds. P. Beirne & R. Sharlet), London & New York 1980, pp.168-83, 184-5. Also at https://www.marxists.org/archive/pashukanis/1925/xx/intlaw.htm

[69] China Miéville *Between Equal Rights: A Marxist Theory of International Law* (Leiden: Brill Academic Publishers, 2005) Appendix, 321-336

[70] Ibid, 160; and see Piers Beirne and Robert Sharlet (eds) *Pashukanis: Selected Writings on Marxism and Law* (London and New York: Academic Press, 1980), 175

[71] Beirne and Sharlet *Pashukanis*, (1980) 181

[72] Ibid (1980) 168

[73] Ibid (1980) 181

Instead, as Knox summarises Miéville's work in his "Marxist Approaches to International Law"[74]:

> Miéville systematises Pashukanis's insights and combines them with Martti Koskenniemi's theory of indeterminacy. He argues that indeterminate legal arguments will be resolved in favour of whoever can make their interpretation "stick". Given the structural connection between imperialism and international law, it will be generally be the ruling class that will win contests of interpretation.

Or, as Miéville put it, going beyond questions of interpretation, "The attempt to replace war and inequality with law is not merely utopian – it is precisely self-defeating. A world structured around international law cannot but be one of imperialist violence. The chaotic and bloody world around us *is the rule of law."* [75] This is not in any sense a methodology.

B. S. Chimni, CMILS and IMAIL

The formidable Indian scholar B. S. Chimni is perhaps best known for his contributions to TWAIL – Third World Approaches to International Law, which has, from its start at Harvard University in 1996, developed into a leading school of critical international law scholarship.[76] Chimni not only published in 1993 an impressive critique of the "classical realism" of Morgenthau and others, of Soviet International law, and of the "New Haven" "policy-oriented" School of Harold Lasswell and Myres McDougal,[77] *International Law and World Order: A Critique of Contemporary Approaches*, but in 2017, at last, after more than 20 years, published a second edition, to which I turn below.

This followed his article in 2004, "An Outline of a Marxist Course on Public International Law"[78], proposing a "critical Marxist international law scholarship (CMILS)". Chimni explains that "CMILS advances more meaningful definitions that distinguish the character of international law and its doctrines and its doctrines in different historical phases and

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[74] Note 4 above
[75] Miéville (2004) 302
[76] B. S. Chimni "Third World Approaches to International Law: A Manifesto" 8 (2006) *International Community Law Review* 3–27; and Luis Eslava "TWAIL Coordinates" 2 April 2019 *Critical Legal Thinking* at https://criticallegalthinking.com/2019/04/02/twail-coordinates/ , concluding "TWAIL is a movement, not a school; a network, not an institution; a sensibility, not a doctrine. This restlessness and commitment to openness are nourished, above all, by the diversity of the world to which TWAIL responds and from which its momentum arises."
[77] B. S. Chimni *International Law and World Order. A Critique of Contemporary Approaches* (New Delhi/Newbury Park/London: Sage Publications, 1993)
[78] B. S. Chimni "An Outline of a Marxist Course on Public International Law" 17 (2004) *Leiden Journal of International Law*, 1-30; also in Susan Marks (editor) *International Law on the Left: Re-examining Marxist Legacies* (Cambridge: Cambridge University Press, 2008), 53-91

identifies the groups/classes/states that are the principal movers and beneficiaries."[79] It advances "a comprehensive strategy that furthers the interests of the subaltern classes without entirely undermining a rule-oriented approach".[80] Thus, Chimni does not seek to deal in detail with the various topics of international law, but has short sections on "Sources of international law"[81], "The relationship between international law and municipal law: growing integration"[82], "The jurisdiction of states"[83], "International economic law"[84], "International environmental law"[85], "International human rights law"[86], "The international law of state responsibility"[87]; and "International law and the use of force"[88]. All his proposals are progressive, but do not specify a Marxist methodology. Indeed, there is very little of Marx or Marxism in these sections. Chimni, it appears, wants to make international law a more effective instrument in the class struggle. But international law is not itself emancipatory, and Chimni, as a Marxist, is not interested in questions of morality, or of supervening values.

It may be said that Wade Mansell and Karen Openshaw have followed Chimni's lead in their textbook, first published in 2013, with a second edition in 2019, *International Law: A Critical Introduction*.[89] This is the text I recommend to my students. It does what it says on the tin – it is a critical introduction; it is not a Marxist text. Rather, "Underlying the book is the assertion that international law is political in content (in the sense of being concerned with the exercise of power) but that it draws much of its effectiveness from its self-portrayal as being apolitical, or at least politically neutral."

In 2010 Chimni published "Prolegomena to a Class Approach to International Law"[90], a key-note lecture which he had delivered at the Critical Legal Conference in Glasgow in 2008, with a response at the conference by Akbar Rasulov. The article, wrote Chimni, was written "on the premise that a class approach to international law offers critical insights into the structure and process of international law whatever the theoretical frame used: be it that of

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[79] Ibid, 3
[80] Ibid, 13
[81] Ibid, 11
[82] Ibid, 17
[83] Ibid, 18,
[84] Ibid, 21
[85] Ibid, 23
[86] Ibid, 24
[87] Ibid, 25
[88] Ibid, 27
[89] Wade Mansell and Karen Openshaw *International Law: A Critical Introduction* (2nd ed, London, Hart Publishing, 2019)
[90] B. S. Chimni "Prolegomena to a Class Approach to International Law" 21(1) *European Journal of International Law*, 57-82

Marx, Weber or Bourdieu."[91] He did not specify a Marxist methodology here either. Nor did he seek to develop CMILS, which to my knowledge has not re-appeared..

The new edition of *International Law and World Order* has the same title as the first, but is very much expanded, from 318 pages to 649.[92] There are new chapters on David Kennedy's NAIL ("New Approaches to International Law")[93], and feminist approaches to international law, as exemplified by Hilary Charlesworth, Christine Chinkin and Catherine McKinnon[94]. Of particular interest to this chapter he proposed an "integrated Marxist approach to international law" (IMAIL)[95], with a critique in particular of Pashukanis and his latter day disciple China Miéville[96]. My former student Akbar Rasulov in his review article comments as to the idea of IMAI: "Not that one can immediately work what exactly it stands for."[97] He continues: "Although Chimni himself never puts it in so many words, IMAIL for him is, essentially, the concept of intersectionality writ large… the basic argument Chimni is revisiting here is essentially a combination of Louis Althusser's theory of overdetermination and its logical centrepiece the concept of the 'determination in the last instance'."[98]

And while Rasulov admires Chimni's ambition, he concludes that "None of these concepts, however, indicates an actual methodology."[99] Chimni, I think, would not, and in any event could not, disagree.

Conclusion

If there is a "Marxist" (or Marxian) methodology, in respect of any field of inquiry, including international law, what would its characteristics be? Or at any rate, what might scholars of international law draw from the many writings, most unpublished in their lifetimes, of Marx and Engels. The following is what I tell my students

Ruthless radical materialism – derived from Aristotle and Spinoza in particular

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[91] Ibid, 81
[92] B. S. Chimni *International Law and World Order. A Critique of Contemporary Approaches* (2nd ed, Cambridge: Cambridge University Press, 2017)
[93] Ibid, Chapter 5, pages 246-357
[94] Ibid, Chapter 6, pages 358-439
[95] Ibid, Chapter 7, pages 440-550
[96] China Miéville *Between Equal Rights: A Marxist theory of International Law* (New ed, London: Pluto Press 2006)
[97] Akbar Rasulov "A Marxism for International Law: A New Agenda" 29(2) (2018) *European Journal of International Law*, 631-655, at 635
[98] Ibid, 648
[99] Ibid, 652

For Marx is there is no question of transcendence much less an interventionist deity. He changed his mind as to whether humans have a specific "species being". Marx was not a moralist. Capitalists are no more wicked or greedy than anyone else, but if they are to survive as capitalists they are driven by the remorseless necessity of capitalist accumulation and the "law of value".

Immanent critique – the title of Capital: the critique of political economy

Marx does not erect his own philosophical system, from which he will criticise Hegel, Smith or Ricardo. That is, transcendental critique. Instead, based on years of empirical study of the workings of capital, assisted by Engels who was himself a capitalist, Marx delved into the highpoints of philosophy and political economy of his time, in order to expose their inner contradictions and identify the developments required for a better understanding. This is immanent critique – critique from within.

No doctrine of political organisation

Marx was politically active all his life, author of the *Communist Manifesto*, a founder of the International Working Mens Association (the First International), a strong supporter of Irish and Polish struggles for self-determination. But he never founded a political party and never developed a theory of political organisation. He always intervened, as a revolutionary intellectual, often as an engaged journalist, in the actual movements and struggles of his day.

No utopian vision of the future

Marx wrote practically nothing about the future socialist or communist society. His life was dedicated to the struggle to overcome the horrors of capitalism, and the exploitation, racism, and environmental degradation which it irresistibly generates. I think Marx and Engels would agree with me that the moment the earthly paradise was achieved, a large blue gas giant planet, as in Lars Von Trier's extraordinary 2011 film *Melancholia*, would arrive from behind the sun and obliterate us, communism and all.

At the September 2017 London conference *Capital.150: Marx's 'Capital' Today*[100] on 150 years of Marx's *Capital*, the great German Marx scholar Michael Heinrich was asked to sum up the whole of Marx's thought in one word. He answered, without hesitation, "Struggle".

[100] Recordings of all presentations and discussion may be found at https://www.kcl.ac.uk/archive/news/european-studies/2017-18/capital.150-conference-a-brief-summary