

Cambridge University Press

978-0-521-88255-2 - International Law on the Left: Re-examining Marxist Legacies

Edited by Susan Marks

Frontmatter

[More information](#)

INTERNATIONAL LAW ON THE LEFT

Against expectations that the turn away from state socialism would initiate a turn away from Marxist thought, recent years have seen a resurgence of interest in Marxism and its reassessment by a new generation of theorists. This book pursues that interest with specific reference to international law. It presents a sustained and ground-breaking exploration of the pertinence of Marxist ideas, concepts and analytical practices for international legal enquiry from a range of angles. Essays consider the relationship between Marxism and critical approaches to international law, the legacy of Soviet international legal theory, the bearing of Marxism for the analysis of international trade law and human rights, and the significance for international legal enquiry of such Marxist concepts as the commodity, praxis and exploitation.

SUSAN MARKS is Professor of Public International Law at the School of Law, King's College London.

Cambridge University Press

978-0-521-88255-2 - International Law on the Left: Re-examining Marxist Legacies

Edited by Susan Marks

Frontmatter

[More information](#)

INTERNATIONAL LAW ON THE LEFT

Re-examining Marxist Legacies

Editor

SUSAN MARKS



CAMBRIDGE
UNIVERSITY PRESS

Cambridge University Press

978-0-521-88255-2 - International Law on the Left: Re-examining Marxist Legacies

Edited by Susan Marks

Frontmatter

[More information](#)

CAMBRIDGE UNIVERSITY PRESS

Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore, São Paulo, Delhi

Cambridge University Press

The Edinburgh Building, Cambridge CB2 8RU, UK

Published in the United States of America by Cambridge University Press, New York

www.cambridge.org

Information on this title: www.cambridge.org/9780521882552

© Cambridge University Press 2008

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2008

Printed in the United Kingdom at the University Press, Cambridge

A catalogue record for this publication is available from the British Library

ISBN 978-0-521-88255-2 hardback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication, and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

Cambridge University Press

978-0-521-88255-2 - International Law on the Left: Re-examining Marxist Legacies

Edited by Susan Marks

Frontmatter

[More information](#)

CONTENTS

- Contributors* page vii
Acknowledgements x
- Introduction 1
- 1 What should international lawyers learn from
Karl Marx? 30
MARTTI KOSKENNIEMI
- 2 An outline of a Marxist course on public international
law 53
B. S. CHIMNI
- 3 The commodity-form theory of international law 92
CHINA MIÉVILLE
- 4 Positivism versus self-determination: the contradictions of
Soviet international law 133
BILL BOWRING
- 5 Marxism and international law: perspectives for the American
(twenty-first) century? 169
ANTHONY CARTY
- 6 Toward a radical political economy critique of transnational
economic law 199
A. CLAIRE CUTLER
- 7 Marxian insights for the human rights project 220
BRAD R. ROTH

Cambridge University Press

978-0-521-88255-2 - International Law on the Left: Re-examining Marxist Legacies

Edited by Susan Marks

Frontmatter

[More information](#)

vi

CONTENTS

- 8 Marxian embraces (and de-couplings) in Upendra Baxi's
human rights scholarship: a case study 252

OBIORA CHINEDU OKAFOR

- 9 Exploitation as an international legal concept 281

SUSAN MARKS

Index 309

Cambridge University Press

978-0-521-88255-2 - International Law on the Left: Re-examining Marxist Legacies

Edited by Susan Marks

Frontmatter

[More information](#)

CONTRIBUTORS

BILL BOWRING is a practising barrister and Professor of Law at Birkbeck College, University of London. He has many publications on topics of international law, human rights and Russian law, in which he frequently acts as a court expert. He founded and is Chair of the European Human Rights Advocacy Centre (EHRAC), which is assisting with over 1,000 cases against Russia, Georgia and Latvia at the European Court of Human Rights. He is a long-time activist and former Treasurer of the International Association of Democratic Lawyers, and is President of the European Association of Lawyers for Democracy and Human Rights. He speaks fluent Russian and has travelled to Russia and other countries of the former USSR and Central and Eastern Europe for international organisations on a regular basis. His first visit to Russia was in 1983, when Andropov was General Secretary of the CPSU.

ANTHONY CARTY is Professor of Public Law at the University of Aberdeen. He has had a long interest in so-called Third World problems and produced *International Law and Development* (Ashgate) in 1993. He ran a development law programme for government lawyers in the English-speaking Caribbean, funded by the EU and the US government. He has published joint projects with Dutch and French international lawyers interested in development. He has just published *Philosophy of International Law* (Edinburgh University Press). At Aberdeen he has set up an LL.M (taught master's course) in International Law and Globalisation.

DR. B. S. CHIMNI is Professor of International Law in the School of International Studies, Jawaharlal Nehru University, New Delhi. He has been a Visiting Professor at the International Center for Comparative Law and Politics, Tokyo University, a Fulbright Visiting Scholar at Harvard Law School, and a Visiting Fellow at Max Planck Institute for Comparative and Public International Law, Heidelberg. He has published three books and numerous articles on a range of subjects of international law. He is a General Editor of the *Asian Yearbook of International Law*. His central

Cambridge University Press

978-0-521-88255-2 - International Law on the Left: Re-examining Marxist Legacies

Edited by Susan Marks

Frontmatter

[More information](#)

viii

CONTRIBUTORS

research interest is to elaborate in association with a group of likeminded scholars a critical Third World approach to international law.

DR. A. CLAIRE CUTLER is Professor of International Law and Relations in the Political Science Department at the University of Victoria, Victoria, British Columbia, Canada. She teaches International Law, International Organization, International Relations Theory, Critical Globalization Studies and Histories of the States System and Global Capitalism. Her publications include *Private Power and Global Authority: Transnational Merchant Law in the Global Political Economy* (Cambridge University Press, 2003) and *Private Authority and International Affairs* (State University of New York Press, 1999).

MARTTI KOSKENNIEMI is Academy Professor with the Academy of Finland. He is also Professor of International Law at the University of Helsinki and Hauser Global Professor of Law at New York University School of Law. He has been a member of the UN International Law Commission (2002–06) and Judge at the Administrative Tribunal of the Asian Development Bank (1997–2002). In the 1980s and early 1990s, he was First Secretary and Counsellor for Legal Affairs at the Ministry for Foreign Affairs of Finland. His main works are *From Apology to Utopia. The Structure of International Legal Argument* (Cambridge University Press, reissue with a new epilogue, 2005) and *The Gentle Civilizer of Nations. The Rise and Fall of International Law 1870–1960* (Cambridge University Press, 2001). Professor Koskenniemi's research interests focus on the theory and history of international law.

SUSAN MARKS is Professor of Public International Law at King's College London. She is the author of *The Riddle of All Constitutions* (Cambridge University Press, 2000) and (with Andrew Clapham) *International Human Rights Lexicon* (Cambridge University Press, 2005).

CHINA MIÉVILLE is a novelist and writer on international law and politics. He is an honorary research fellow at Birkbeck, University of London, School of Law, and is on the editorial board of the journal *Historical Materialism*. His non-fiction includes *Between Equal Rights: A Marxist Theory of International Law* (Brill, 2005; Haymarket, 2006).

OBIORA CHINEDU OKAFOR is an Associate Professor at the Osgoode Hall Law School; Faculty Member at the Centre for Refugee Studies; and Faculty Associate at the Harriet Tubman Institute for the Study of the African Diaspora, York University, Toronto, Canada. He holds a Ph.D and an LL.M

Cambridge University Press

978-0-521-88255-2 - International Law on the Left: Re-examining Marxist Legacies

Edited by Susan Marks

Frontmatter

[More information](#)

CONTRIBUTORS

ix

from the University of British Columbia, Vancouver, Canada; and an LL.M and LL.B (Honours) from the University of Nigeria. He recently served as a Canada-US Fulbright Scholar at the Massachusetts Institute of Technology, USA, and has previously served as SSRC-MacArthur Foundation Fellow on Peace and Security in a Changing World.

BRAD R. ROTH is Associate Professor of Political Science and Law at Wayne State University, where he teaches courses at the undergraduate, graduate, and professional levels in international law, human rights and political theory. He is the author of *Governmental Illegitimacy in International Law* (Clarendon Press, 1999), winner of the 1999 Certificate of Merit from the American Society of International Law as 'best work in a specialized area', and the co-editor (with Gregory H. Fox) of *Democratic Governance and International Law* (Cambridge University Press, 2000). In over two dozen journal articles, book chapters and commentaries, he has explored questions of sovereignty, human rights, constitutionalism, and democracy.

Cambridge University Press

978-0-521-88255-2 - International Law on the Left: Re-examining Marxist Legacies

Edited by Susan Marks

Frontmatter

[More information](#)

ACKNOWLEDGEMENTS

The idea of producing a volume along these lines goes back quite a long way, to a small symposium on the theme of ‘Marxism and International Law’ held in The Hague in September 2003 and organised by Miklós Redner and myself under the auspices of the *Leiden Journal of International Law*. The symposium was itself Miklós Redner’s idea, and I thank him for that crucial contribution to this book. Five of the essays here – by Anthony Carty, B. S. Chimni, Martti Koskenniemi, China Miéville and Brad Roth – are revisions or reprints of papers that have appeared in the *Leiden Journal of International Law* ((2004) vol. 17, issues 1 and 2), and I give thanks, too, to the editors of that journal for permission to include them here. I am immensely grateful to Govert Coppens for research assistance in connection with the preparation of the manuscript, and to Matthew Craven, Daniel Joyce and Nigel Parke for help in elaborating my own contributions. Finally, appreciation of editorial support is something routinely expressed, but it has to be said that Finola O’Sullivan at Cambridge University Press really has been exceptionally patient and supportive in this case.