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## Marx, Lenin and Pashukanis on Self-Determination: Reply to Robert Knox

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### Abstract

This response to Robert Knox's very kind and constructive review of my 2008 book *The Degradation of the International Legal Order?: The Rehabilitation of Law and the Possibility of Politics* gives me the opportunity not only to answer some of his criticisms, but also, on the basis of my own reflections since 2008, to fill in some gaps. Indeed, to revise a number of my arguments. First, I re-state my attempt at a materialist account of human rights. Next I explain why for me the right of peoples to self-determination is absolutely central to a materialist understanding of human rights; and also fill a serious gap in my own account in the book. This leads me not only to a reply to Robert Knox on the question of 'indeterminacy' in international law, but also to a disagreement with him on the use or misuse of the language of self-determination. My fourth section returns to our very different evaluations of the significance and meaning of the work of Yevgeny Pashukanis, and what, for me, is Pashukanis' misunderstanding, for reasons consistent with his general theoretical trajectory, of Marx and Lenin on the Irish question. Finally, I present an outline of a re-evaluation of Marx's principled position on self-determination.

My book on international law and human rights appeared in 2008<sup>1</sup>. I have been very fortunate indeed, in that several reviewers have taken it seriously<sup>2</sup>. Robert Knox, who is himself a rising star of international legal theory, has provided a second searching and thoughtful critique which reflects a continuing and fruitful engagement between us – the first was on his *Law and Disorder* blog.<sup>3</sup> I am therefore particularly grateful to the editors of *Historical Materialism* for this opportunity to respond to him.

Symptomatic of the care with which Knox has read my book is his ready identification<sup>4</sup> of my central project, which is a 'substantive account of human rights'. This is intended by me to be a thoroughly materialist account of human rights, eliminating any reference to the transcendent or to any reliance on 'human nature', and located firmly in history, time and space.

### A materialist account of human rights

A central element of my project is the identification, itself nothing new, of three generations of human rights, each with its inception in the revolutionary events of the 1780s, of the years following 1917, and, especially of the great anti-colonial struggles of the Post World War II period. Each of these inspiring revolutionary events and the rights associated with it - the civil and political rights of the French Revolution, the social and economic rights of the Russian Revolution, and the third generation rights, crowned by the right of peoples to self-determination, and anti-colonial struggles -

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<sup>1</sup> Bowring 2008

<sup>2</sup> See also Shaw 2009; Feldman 2008; Harvey 2008

<sup>3</sup> Knox 2008

<sup>4</sup> Knox 2010, p.194

makes available to succeeding generations a ‘symbolic capital’ on which each may draw. In this way, the rights in question, at first glance no more than forms of words, mere rhetoric, acquire material force when mobilised in struggle. This is what I mean by ‘... their proper status as always scandalous, the product of, and constantly reanimated by, human struggle.’<sup>5</sup>

I further maintain that human rights are not at all like civil and criminal law, which in various forms have existed (like religion) for as long as human civilisation, and which are to be found in codified or customary forms. There is a continuing debate, to which I have not yet contributed, as to whether constitutional law is also the product of defining historical moments and struggles. I have myself taught English constitutional law in the light of the relations between England and Ireland: the defining moments of English constitutional development map well onto the bloody attempts of England to colonise Ireland, and it is no accident that the presiding genius of constitutional theory in England was A. V. Dicey, a fervent opponent of Home Rule, and an energetic Unionist.

International law also has a special status, with serious arguments, drawn from English positivism and international relations ‘realism’, as to whether there is any such thing. It is my contention that the international law to which Martti Koskenniemi referred as the ‘gentle civiliser of nations’<sup>6</sup> or for an imagined and reactionary version of which Carl Schmitt had such nostalgia<sup>7</sup>, and of which the USSR had throughout its existence such a rigidly positivist account<sup>8</sup>, was thoroughly transformed in the post World War II period. The creation of the United Nations by the victorious powers – all permanent members of the Security Council with the exception of China were colonial powers at the time – was almost immediately subverted and transformed by the bloody and tumultuous anti-colonial struggles. This is why I refer in my first chapter to the right of peoples to self-determination as the revolutionary kernel of international law.

It is my case that the working out of struggles for this right dominates the international agenda to this day. My examples in the book, drawn from practical experience, of the Kurds and the Chechens, are but two of a myriad all over the planet.

Much of my book – incidentally, the sequence of chapters was re-ordered, and chapters were added and removed until a late stage – is devoted not only to a working out of my theses in relation to current events, but also to responses to some of the most cogent opposing positions, especially those of Habermas; of the post-modernists especially Douzinas; and of Badiou and Žižek, whose work I first drew on for its powerful attacks on contemporary human rights discourse. Knox is however quite right in noting my sympathy with Badiou’s political challenge, alongside and despite his complex ontology, in respect of which I do have reservations – for example, I reject Badiou’s critique of Spinoza, a topic for further work.

### **International law and self-determination**

My disagreements with Knox begin where he explains my position on international law, and introduces my critique of Miéville and Pashukanis. My account of self-

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<sup>5</sup> Bowring 2008, p.112; Knox 2010, p.194

<sup>6</sup> Koskenniemi 2001

<sup>7</sup> Schmitt 2006, 2007

<sup>8</sup> Bowring 2008a

determination begins with Lenin's profound and detailed polemic with Rosa Luxemburg and others, in a series of extended articles written before World War I<sup>9</sup>. In short, Lenin's principled position, put into practice by him following 1917, and the subject matter of his final struggle with Stalin, graphically analysed by the late Moshe Lewin, is for me very much alive. That is why my title, *The Degradation of the International Legal Order?* has a question mark – and why it is followed by a pointer to the 'rehabilitation of law' and the 'possibility of politics'. It is not the principles concerned which could be said to have undergone a process of degradation, but the real achievements of struggle in transforming international law.

Rather than lumping together the 'active struggle of the USSR and the Third World' as Know suggests<sup>10</sup>, I show, in Chapter 1 of my book, and my chapter in the 2008 Susan Marks collection, how the USSR played a thoroughly contradictory, indeed schizophrenic role after Lenin's death. On the one hand self-determination movements were ruthlessly repressed both within the USSR and its sphere of interest; on the other, huge diplomatic and material resources were directed to the anti-colonial and national liberation movements – and to the real struggle to elevate the right of peoples to self-determination to the status of a right in international law in the United Nations human rights covenants, in 1960, 1966 and 1970.

What was missing from my book and from my Susan Marks chapter was Issa Shivji's splendid critique of Soviet practice. I had most certainly read this in 1992, but had forgotten it by 2007.

Shivji is one of the most radical African specialists in law and the constitution. His *Concept of Human Rights in Africa*<sup>11</sup> is a fine exposé of the malign influence of western individualised human rights in Africa. In his 1991 contribution to William Twining's Aberdeen collection<sup>12</sup> he was perfectly clear that the comprehensive theorisation of the 'right to self-determination' was carried out by Lenin, and was put into practice in the 1918 *Declaration of Rights of the Working and Exploited People*<sup>13</sup> which proclaimed complete independence of Finland, evacuation of troops from Persia, and freedom of self-determination for Armenia. Self-determination only appeared in the UN Charter (as a principle, not a right) at the insistence of the Soviet delegation.<sup>14</sup>

As for its application in Africa, Shivji refers to an important passage from the October 1917 *Decree on Peace*, drafted by Lenin.<sup>15</sup>

In accordance with the sense of justice of democrats in general, and of the working class in particular, the government conceives the annexation of seizure of foreign lands to mean every incorporation of a small or weak nation into large or powerful state without the precisely, clearly, and voluntarily expressed consent and wish of that nation, irrespective of the time when such forcible incorporation took place, irrespective also of the degree of development or backwardness of the nation forcibly annexed to the given state, or forcibly retained within its borders, and irrespective, finally, of

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<sup>9</sup> See Löwy 1976 96-98 for a resounding defence of Lenin's position

<sup>10</sup> Knox 2010, p.196

<sup>11</sup> Shivji 1989

<sup>12</sup> Shivji 1991a

<sup>13</sup> Published in *Pravda* No. 2 and *Izvestia* No. 2, January 4 (17), 1918, V. I. Lenin, Collected Works, 4th English Edition, Progress Publishers, Moscow, 1964 Vol. 26, pp. 423-25, at <http://www.marx2mao.com/Lenin/DRWP18.html>

<sup>14</sup> Shivji (1991a) 34

<sup>15</sup> At <http://www.marxists.org/archive/lenin/works/1917/oct/25-26/26b.htm>

whether this nation is in Europe or in distant, overseas countries.

Lenin, therefore, was for self-determination everywhere, including the Russian Empire and indeed the whole of Europe. I have no doubt he would have supported the Basques, the Kurds, the Chechens, and the Palestinians – as well as the Irish.

Shivji argues, quite correctly, that Soviet practice following World War II was consistently to apply only one aspect of Lenin's proposition, that is, formation of states by formerly colonised people – but otherwise resolutely to uphold, in the most conservative manner, the doctrines of territorial integrity, state sovereignty and non-intervention. This is the rigid positivism to which I refer in my chapter for Susan Marks' collection.<sup>16</sup>

For Lenin, however, self-determination was a continuing right, and could be invoked at any time by an *oppressed* nation even in a sovereign state. Shivji continued: 'the problem in Africa has been precisely that the existing states have not treated nations and minorities under them democratically, hence their fear that the recognition of this 'right' will lead to secession.'<sup>17</sup>

Shivji applied this analysis to Ethiopia/Eritrea and to Southern Sudan. He argued forcefully that state practice in Africa had isolated and absolutised only one element in the right, the element of anti-colonialism. This had 'robbed the right of self-determination of its fundamental defining characteristic, anti-imperialism.'<sup>18</sup> He concluded:

... the right to self-determination is a *collective* right. It is a continuing right, 'a right that keeps its validity even after a people has chosen a certain form of government or a certain international status'<sup>19</sup>. The right-holders in the right to self-determination are dominated/exploitation people and oppressed nations, nationalities, national groups and minorities identifiable specifically in each concrete situation.'<sup>20</sup>

It was only a shame that Makau wa Mutua in his passionate 1995 article *Why Redraw the Map of Africa?*<sup>21</sup> did not refer – in his section III entitled 'The National Question and Self-Determination: Prospects for Alternative Formulae'<sup>22</sup> to Shivji's work at all, but only to the much more conservative and orthodox account by Abdullahi An-Na'im in Shivji's own collection, also published in 1991.<sup>23</sup>

### **The absence of indeterminacy?**

Furthermore, Knox takes me to task for neglecting the debate on 'legal indeterminacy'.<sup>24</sup> To which, in part, I plead guilty. The 'indeterminacy thesis' holds that 'in any given case – legal argument can serve to justify any outcome.' Knox cites Koskenniemi, as arguing that 'the law constantly oscillates between the two mutually opposed poles of sovereignty and world order.'

In fact, at the page cited by Knox<sup>25</sup>, Koskenniemi explains that there are two ways of arguing about order and obligation in international law. The first 'traces them down to

<sup>16</sup> See Bowring 2008a

<sup>17</sup> Shivji 1991a 35

<sup>18</sup> Shivji 1991a 37

<sup>19</sup> See Cassese 150

<sup>20</sup> Shivji 1991a 43

<sup>21</sup> Wa Mutua 1995

<sup>22</sup> Wa Mutua 1995, 1150

<sup>23</sup> An-Na'im 1991 101-102

<sup>24</sup> Knox, 197

<sup>25</sup> Koskenniemi 2005, 59

justice, common interests, progress... anterior or superior to State behaviour... Another argument bases order and obligation on State behaviour, will or interest...'. Which may not be quite the same thing.

My own take on this thesis, which I have put to Koskeniemi himself – he seemed to agree - is that writing as he does from the twin perspectives of scholar and practitioner, indeterminacy properly applies to the process of international litigation. As he puts it, 'The politics of international law is what competent international lawyers do. And *competence is the ability to use grammar in order to generate meaning by doing things in argument.*'<sup>26</sup> (his emphasis) Thus, the lawyers on each side of a case, and the judge(s), have in common their membership of an epistemic community, users of the language that must be used in order to participate in the process at all. Both sides advance the most convincing – and competent – argument they can. And the outcome is wholly indeterminate – the case can go either way. Otherwise, there would be no point in litigating. Koskeniemi also pointed out that 'the other ambition in *From Apology to Utopia* looked beyond description. It was to provide resources for the use of international law's professional vocabulary for critical or emancipatory causes.'<sup>27</sup> I have no problem with either of these propositions. The first describes what I do when I and my colleagues argue a case at the European Court of Human Rights. The second is what I try to do in my own book, on the basis of a thoroughly materialist and historicised account of international law – and its revolutionary kernel. As Koskeniemi himself freely admits, he is not a Marxist. But he combines the experience of practice with a fine critical scepticism as to international law. And it is no surprise to me that competent scholars of international law are well able to argue a position which is the opposite of the one I take. For me, the historical outcome will be determined by politics, not by doctrine; and for that very reason is entirely indeterminate. We do not know which side will win. Immediately following his criticism as to indeterminacy, Knox charges me with silence as to the invocation [of self-determination] by various imperialist powers.<sup>28</sup> He cites the 2008 Russia-Georgia war, and states that Russia invaded Georgia 'under the rationale (amongst others) of defending the right to self-determination of Abkhazia's ethnic Russians.' This is simply not the case.<sup>29</sup> It is now firmly established<sup>30</sup> that Georgia started the conflict by attacking Tskhinvali, the capital of South Ossetia, which is part of Georgian territory, but broke away in 1991. Russia's response was a brutal counter-attack in defence of its own peacekeepers and the many Ossetians who hold Russian citizenship. Abkhazia was not the issue. However, in my view the Abkhazian people most certainly have a right to self-determination. Its people are Circassians, against whom the Russian Empire committed genocide in the 1800s. The Circassians will be making this point forcefully at the Russians' Winter Olympics at Sochi, the site of the massacres. The Abkhaz language is quite unrelated to Georgian; Abkhazia had a long history as a kingdom and a principality; and had autonomous status in the USSR. The Abkhazians committed ethnic cleansing against the Georgian population of Abkhazia; but their claim to self-determination still has merit. Like every form of words – of discourse –

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<sup>26</sup> Koskeniemi 2005, 571

<sup>27</sup> Koskeniemi 2005 589

<sup>28</sup> Knox 2010, 199

<sup>29</sup> Bowring, forthcoming 2010

<sup>30</sup> European Union (2009) *Report of the Independent International Fact-Finding Mission on the Conflict in Georgia* September 2009. The IIFFMCG was established by decision of the Council of the European Union of 2 December 2008.

the phrase ‘the right to self-determination’ can be picked up and abused by any party to a conflict. But I maintain that its origins are to be found in Marx and Engels, as I show below; and it was developed as an integral part of revolutionary Marxism by V I Lenin, and played the crucial role in the development of international law after WWII.

### The Pashukanis debate

However, as with his *Law and Disorder* review<sup>31</sup>, the nub of Knox’s critique concerns Yevgeny Pashukanis. Knox rightly reproaches me for ignoring Yevgeny Pashukanis’ important text *Lenin and Problems of Law*.<sup>32</sup> According to Knox, in *Law and Disorder*, ‘This is the main text in which Pashukanis attempts to outline a specifically Marxist approach to legal strategy. For this reason I have always found it rather odd that it is *never mentioned* in the contemporary debates.’ I admit that I had not read it; but I have now.

In my book, I argued that Pashukanis missed the significance of self-determination.<sup>33</sup> Indeed, I asserted that ‘Pashukanis was incapable of recognising the significance of self-determination for international law’<sup>34</sup> – that is, its significance for the imperialist and colonial systems. Knox answered me, in his *Law and Disorder* review, as follows: ‘... Pashukanis takes self-determination *seriously*.’ By this he means that in the final part, V, of *Lenin and Problems of Law*<sup>35</sup> Pashukanis does indeed discuss self-determination, and this I had missed – so I am very grateful to Knox, and pay tribute to his scholarship.

In his *Law and Disorder* review, Knox insisted that for Lenin the demand for the right of nations to self-determination was an ‘‘abstract’, ‘negative’ demand of formal equal rights.’ In the context of Russian absolutism, the abstract formal equality of right was a revolutionary demand. Knox then turned to Pashukanis’ argument that this right though is ultimately *limited* precisely because it remains within a legal, and therefore capitalist framework, therefore in a new concrete conjuncture:

This was a new stage, a new situation, a new and higher level of struggle. And new priorities corresponded to it. The bourgeois-democratic stage had passed, and with it the formal legal demand for national self-determination - characteristic of this stage - lost its former significance. The slogan ‘overthrow the rule of the bourgeoisie on a world scale and set up the international dictatorship of the proletariat’ became the immediate practical slogan. Does this mean that national self-determination lost all significance; that it could be replaced with the ‘self-determination of the proletariat’? Certainly not. This would have been to ignore the presence of backward countries which had not passed through the stage of bourgeois democratic national revolutions. The communist proletariat of advanced countries had to support these movements; with all its strength it had to struggle so that the accumulation of centuries of ill will and the distrust by backward people of the dominant nations – and of the proletariat of these nations – was overcome as quickly as possible. It was impossible to achieve this goal without proclaiming and conducting in practice the right of national self-determination. Moreover, even for a socialist society moving towards the elimination of classes the question of national self-determination still remains a real one, since although based on economics, socialism by no means consists solely of economics.<sup>36</sup>

We should recall what Pashukanis said a few pages earlier. He reported that Lenin’s opponents – especially Rosa Luxemburg - had argued against the ‘right to self-

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<sup>31</sup> Knox 2008

<sup>32</sup> Pashukanis 1924, 1980

<sup>33</sup> Bowring 2008, 28-30

<sup>34</sup> Bowring 2008, 29

<sup>35</sup> Pashukanis 1924, 1980, 156-162

<sup>36</sup> Pashukanis 1924, 1980 162-3

determination' 'under the pretext that 'in essence' no 'self-determination could exist under capitalism, and that under socialism it was not necessary.'<sup>37</sup> Lenin's position as stated in 1916, correctly reported by Pashukanis, was that 'The dispute is related to one of the *forms of political oppression*, namely, the forceful domination of one nation by the state of another nation. This is simply an attempt to avoid political questions.'<sup>38</sup> But Pashukanis went on to state that no-one apart from him had noted that Luxemburg's position amounted to a 'complete rejection of the legal form'.<sup>39</sup> Pashukanis then cited a longer passage from Lenin's 1914 major work on *The Right of Nations to Self-Determination*.

By the way, it is not difficult to see why, from a Social-Democratic point of view, the right to 'self-determination' means *neither* federation *nor* autonomy (a though, speaking in the abstract, both come under the category of 'self-determination'). The right to federation is simply meaningless, since federation implies a bilateral contract. It goes without saying that Marxists cannot include the defence of federalism in general in their programme. As far as autonomy is concerned, Marxists defend, not the 'right' to autonomy, but autonomy itself, as a general universal principle of a democratic state with a mixed national composition, and a great variety of geographical and other conditions. Consequently, the recognition of the 'right of nations to autonomy' is as absurd as that of the 'right of nations to federation'

The effect of this citation, out of context, is to render wholly obscure that which is actually quite clear.

### Ignoring Marx and Lenin on Ireland?

It appears to me that Pashukanis took this passage completely out of context. It is actually one of Lenin's footnotes to Chapter 8 of the work in question, 'The Utopian Karl Marx and the Practical Rosa Luxemburg'. Lenin was attacking Luxemburg's position that to call for Polish independence is 'utopia'. She asked, ironically as she thought: why not raise the same demand for Ireland? This led Lenin straight to Marx' highly principled stand on Ireland. At first, prior to the 1860s, Marx had thought that Ireland 'would not be liberated by the national movement of the oppressed nation, but by the working-class movement of the oppressor nation.' Lenin pointed out:

However, it so happened that the English working class fell under the influence of the liberals for a fairly long time, became an appendage to the liberals, and by adopting a liberal-labour policy left itself leaderless. The bourgeois liberation movement in Ireland grew stronger and assumed revolutionary forms. Marx reconsidered his view and corrected it.

Lenin cited the following passage. In his letter to Engels on 2 November 1867 Marx wrote:

The Fenian trial in Manchester was exactly as was to be expected. You will have seen what a scandal 'our people' have caused in the **Reform League**. I sought by every means at my disposal to incite the English workers to demonstrate in favour of **Fenianism**.... I once believed the separation of Ireland from England to be impossible. I now regard it as inevitable, although **Federation** may follow upon separation.<sup>40</sup>

The trial in question was that of the 'Manchester martyrs' - William Philip Allen, Michael Larkin, and Michael O'Brien - who were members of the Irish Republican

<sup>37</sup> Pashukanis 1924, 1980 156-7

<sup>38</sup> Lenin, V. I. 1916 'The Discussion on Self-Determination Summed Up' *Sbornik Sotsial-Demokrata* No.1, October 1916, *Collected Works* (Moscow: Progress 1974) Vol.22, pp.320-360, 321, at <http://www.marxists.org/archive/lenin/works/1916/jul/x01.htm>

<sup>39</sup> Pashukanis 1924, 1980 158

<sup>40</sup> Marx 1867



Brotherhood. The men were executed after having been found guilty of the murder of a police officer during an escape that took place close to Manchester city centre in 1867.<sup>41</sup>

That is, Marx was, in the words of the contemporary UK Terrorism Act 2006, ‘glorifying terrorism’, and terrorism committed by bourgeois nationalists at that. He would now face a stiff sentence.

Once Pashukanis’ quotation is placed in context, it is plain that Pashukanis had wholly misunderstood both Lenin and Marx. And influenced as he is by Pashukanis, Knox has also, it appears to me, misunderstood. The issue at stake between Lenin and Luxemburg was, as I point out in my book and chapter, whether the component parts of the Russian Empire should have the right to self-determination and to break away to form new sovereign nations. Luxemburg was convinced that the Empire should be preserved, and was as opposed to Polish liberation as she was to Irish liberation. In my book I show in detail how Lenin put his theory into practice immediately following the Bolshevik victory, supporting the independence of Finland, the three Baltic states – Estonia, Latvia, Lithuania - and Poland. His last struggle was with Stalin: Lenin, on principle supported Georgian independence, even under a Menshevik government- Stalin was totally opposed.<sup>42</sup> Lenin’s creativity was key to the struggles of the National Liberation Movements after World War II.<sup>43</sup>

### **Karl Marx on self-determination**

I have to revise in another respect the position maintained in my book, as to Lenin’s role as progenitor of the ‘right of nations to self-determination’. I note that Marx himself used the term ‘self-determination’ on at least two occasions, in a political rather than a philosophical context. In his letter of 20 November 1865 to Hermann Jung<sup>44</sup>, Marx referred, under the heading ‘International Politics’, to ‘The need to eliminate Muscovite influence in Europe by applying the right of self-determination of nations, and the re-establishment of Poland upon a democratic and social basis.’ Furthermore, in a speech on Poland delivered on 24 March 1875<sup>45</sup>, he declared:

What are the reasons for this special interest of the workers' party in the fate of Poland? First of all, of course, sympathy for a subjugated people which, with its incessant and heroic struggle against its oppressors, has proven its historic right to national autonomy and self-determination. It is not in the least a contradiction that the *international* workers' party strives for the creation of the Polish nation.

No doubt Pashukanis would have sought to put a different spin on that passage. The Afro-American Marxist scholar August Nimtz has addressed the ‘myth’ of Marx’s Eurocentrism, as he describes it.<sup>46</sup> He shows how, from 1870 onwards, Marx and Engels ceased to expect the rebirth of a revolutionary movement in England, following the demise of the Chartists. Instead, they turned to Russia as the revolutionary vanguard. This was ‘an overwhelmingly peasant country that had only one foot in Europe, and not the Europe that the Eurocentric charge refers to, that is, its most developed western flank.’<sup>47</sup>

But as early as 1849, they urged that:

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<sup>41</sup> McGee 2005, 36

<sup>42</sup> Bowring 2008, 18-20

<sup>43</sup> Bowring 2008, 32-35

<sup>44</sup> Marx 1865

<sup>45</sup> At <http://www.marxists.org/archive/marx/works/1875/03/24.htm>

<sup>46</sup> Nimtz 2002

<sup>47</sup> Nimtz 2002, 66

Only a world war can break old England, as only this can provide the Chartists, the party of the organized English workers, with the conditions for a successful rising against their powerful oppressors. Only when the Chartists head the English government will the social revolution pass from the sphere of utopia to that of reality. But any European war in which England is involved is a world war, waged in Canada and Italy, in the East Indies and Prussia, in Africa and on the Danube.<sup>48</sup>

Nimtz shows how Marx and Engels reversed their earlier position and gave support to religious-led Arab resistance to French imperialism in Algeria in 1857; expressed strong sympathy for the Sepoy Mutiny against Britain in India in 1857-9; and by 1861 wrote, as the US Civil War loomed, that US expansion into Texas and what is now Arizona and New Mexico, brought with it slavery and the rule of the slaveholders.<sup>49</sup> At the same time, they were quite clear that the 'booty of British imperialism' had begun to corrupt and compromise the English proletariat.<sup>50</sup>

Pranav Jani in turn focuses on Marx's response to the 1857 revolt in British India.<sup>51</sup> He maintains that 'under the impact of the Revolt, Marx's articles increasingly turned from an exclusive focus on the British Bourgeoisie to theorise the self-activity and struggle of the colonised Indians.'<sup>52</sup> Jani seeks to show how Marx's historical-materialist methodology allowed him to transcend weak formulations and prejudices to achieve a more complex understanding of the relation between coloniser and colonised, in much the same way as the Paris Commune forced him to re-assess his theory of the State.<sup>53</sup> For Jani, Marx was thereby transformed from a 'mere observer' of the anti-colonial struggle to an active participant in the ideological struggle over the meaning of the Revolt. This enabled him also to refute racist representations of Indian violence in the British press 'by drawing a sharp division between the violence of the oppressed and that of the oppressor and dialectically linking the two.'<sup>54</sup> Jani concludes that if Eurocentrism makes Western Europe the centre of the globe, then the Marx he presents is not Eurocentric.

And Marx is the progenitor of the revolutionary sense of self-determination which I celebrate in my book.

Knox cites Rajgopal with approval.<sup>55</sup> Yet I am perplexed by Rajgopal's contribution to the collection *International Law and the Third World: Reshaping Justice*<sup>56</sup>. He at any rate acknowledges (drawing on Morsink<sup>57</sup>) that Britain engaged in intense manoeuvring during the drafting of the UN's *Universal Declaration of Human Rights* in 1948 to prevent Soviet pressure from extending the effect of the right to self-determination to the colonies.<sup>58</sup> This did not happen until 1966, following a tremendous diplomatic effort by the USSR and its allies. On the following page, however, he cites Michael Iganatieff, of all people, as authority for the utterly false proposition that the idea of self-determination was the result of the anti-colonial revolt against empire.<sup>59</sup> It was the other way round entirely: the right to self-determination as developed by Lenin became the rallying cry of the colonial revolt.

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<sup>48</sup> Marx 1849

<sup>49</sup> Nimtz 2002, 68-69

<sup>50</sup> Nimtz 2002, 71

<sup>51</sup> Jani 2002

<sup>52</sup> Jani 2002, 82

<sup>53</sup> Jani 2002, 83

<sup>54</sup> Jani 2002, 90-91

<sup>55</sup> Knox 2010, 204

<sup>56</sup> Falk, 2008

<sup>57</sup> Morsink 1999

<sup>58</sup> Rajagopal 2008, 65

<sup>59</sup> Rajagopal 2008, 66

In the same collection, Vasuki Nesiah, in a flood of unbridled idealism, seeks to persuade us that self-determination has failed – as a discourse. He declares that ‘the failure of self-determination discourse is partly grounded in the invocation of ‘self-determination’ as a trans-historical signifier – a timeless ground for the post-colonial imagination.’<sup>60</sup> Whatever that means.

### **Conclusion**

It will have been noted that Knox’s careful critique has required me to revise my own position in a number of respects. He has pointed out serious gaps in my account, and has spurred me to carry out further investigation. However, to my project of ‘revolutionary conservatism’, he would be inclined to a type of ‘principled opportunism’. I am not sure I agree. Yet in his final paragraph<sup>61</sup> he is kind enough to describe my book as ‘an excellent contribution to the growing debate on Marxist approaches to international law.’ That gives me every reason to look forward to fruitful collaboration with one of the most talented Marxist scholars of the new generation.

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<sup>60</sup> Nesiah 2008, 214

<sup>61</sup> Knox 2010, 205

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