

Opponent's written statement on Katja Keinänen's doctoral dissertation "The so-called universal law: a historical analysis on the centrality of private trade and capital accumulation in the development of public international law"

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I am writing this statement following the public examination of *Katja Keinänen's* doctoral dissertation at the University of Helsinki on 13 December 2025, in which I acted as Opponent.

It was a pleasure to engage with Keinänen's work and I was grateful for the opportunity to discuss it with her. The dissertation offers a rich synthesis of historical and theoretical writing on both the history and theory of international law and the history and theory of capitalism as a mode of production and system of social relations. Its value and importance lie in bringing these two realms into conversation, revealing the ways in which the emergence and development of international law and the emergence and development of capitalism are not merely coeval but co-constitutive.

The dissertation makes a number of claims, their relationship to one another not always entirely clear, but the central argument is that international law, far from neutral, is and always has been rooted in and structured by its relationship with capitalism in general and private trade and capital accumulation in particular. This, Keinänen argues, has important implications, not least for international law's cel-

ebrated universalism – or as she puts it, skeptically, its 'so-called' universalism and its ability, or inability, to act as a progressive vehicle for advancing justice.

The turn to history in international legal scholarship in recent decades offered an important corrective to a long-neglected aspect of international law. But a lot of this historical work remains at the level of doctrine or offers various histories of ideas, failing to apprehend, let alone theorise, international law's relationship to the material structures and political economic forces out of which it emerged. At the same time, the past two decades have seen the emergence of a renewed and vibrant, but also diverse, Marxist school of international legal scholarship that seeks to understand international law's relationship with capitalism and offer a theorization of the field rooted in the Marxist tradition.

Keinänen's work owes much to both traditions, historical and Marxist, but helps bridge the two. Her dissertation might be understood as an attempt to put some historical flesh on the theoretical bones of recent Marxist interventions, taking us back to international law's early emergence and crystallization in the crucible of capitalist development. To do so, she

returns us to early natural law theorists like *Francisco de Vitoria*, by now a familiar figure amongst historians of international law, but sets him and other contemporaries against the insights of Marxist historiography. The result is a dissertation that covers immense scholarly ground and reflects an engagement with a remarkable volume of work spanning several generations of thinkers and several disciplines. Here we have a close, critical engagement with historical materials combined with a careful synthesis of diverse literatures to offer an important and timely intervention. And it is one that, if we take Keinänen's conclusions seriously, has important implications for efforts to mobilise international law for progressive ends today.

During the public examination, I put a number of questions and issues to Keinänen, and I felt she responded to these adequately. Amongst the issues covered was the theoretical framework for understanding the literature and debates into which the dissertation seeks to intervene. How were the particular theorists of international law chosen as the privileged interlocutors? How should we understand and navigate the tensions and disagreements between them?

Another issue we discussed was the concept of capitalism and some potential conceptual confusion in its invocation. The reader encounters at least two possible conceptions of capitalism in the dissertation; to one concerned with a social system based on a specific set of property relations and the other associated with trade and circulation. We discussed the possible incompatibility of these theories of capitalism, and which is centered by Keinänen in her analysis.

The dissertation is an intervention into not only the history of international law but also Marxist debates about the history of cap-

italism. That history, though, is hotly contested even within the Marxist tradition. I posed some questions around these intra-Marxist debates, between such thinkers as *Maurice Dobbs*, *Paul Sweezy*, *Robert Brenner*, *Ellen Wood*, and *Immanuel Wallerstein* and between different theorists of world-systems analysis, merchant capitalism, and 'political Marxism'. The dissertation itself gives little sense of the fierce disagreements between Marxist thinkers or indeed the fundamental incompatibility of some of these thinkers' competing ideas and historical narratives. We discussed whether this matters, whether such disagreements should at the very least be acknowledged, and how best to navigate them.

A further issue concerned the nature of Vitoria's analysis and whether it should be understood as a theory of capitalist extra-European expansion or merely laying the groundwork for a later capitalism. We probed some of the ambiguity in the text, such as the invocation of *Rosa Luxemburg*, and the possible tension between a view of Vitoria as 'unintentionally' a theorist of early forms of capitalism and a view of Vitoria as 'inaugurat[ing] novel, capitalist forms and conceptions of property'.

I also probed some of the organizational choices made in structuring the dissertation. It moves between thematic concerns but in doing so jumps at times backwards and forwards in time and does not follow a clear chronology. Might a different organizational scheme have been used, one that starts with Vitoria and traces how his ideas conditioned and took further shape in the emergence and development of capitalism? What was the rationale in ending with Vitoria rather than starting with his contribution?

We also discussed the use of *Antonio Gramsci* and his theory of hegemony, discussing

whether this might have been introduced earlier in the dissertation, rather than at the start of the final chapter, and whether it might have explanatory power not only for the analysis of Vitoria but also other legal thinkers.

Finally, we discussed the implications of the historical-theoretical analysis for international law in the present. Keinänen describes the inability of international law to advance various conceptions of justice as a contradiction, but I questioned whether, if we take her historical analysis about international law's relationship to capitalism seriously, the former's limits might not be contradictory at all but entirely predictable. We also discussed whether and under what conditions international law might be mobilized to advance a progressive, even revolutionary or anticapitalist, political agenda, and connected such questions to the dissertation's theoretical grounding in the commodity-form theory of law.

The discussion was fruitful, offering me an opportunity to pose some critical reflections and push Keinänen to think further about her claims and arguments and to justify some of her analytical and theoretical choices. She responded adequately to my provocations and was able to defend the dissertation's central claims. I believe the dissertation meets the standards required for the award of the PhD. It contains new scientific knowledge, demonstrates critical thinking, as well as significant familiarity with the relevant fields and literature, reveals appropriate mastery of the research methods applied, develops a justified and convincing argument, and demonstrates scientific integrity while adhering to appropriate ethical norms of research. I therefore recommend that the degree of PhD is awarded to Keinänen.