

QUEERING INTERNATIONAL LAW 2.0

QUEER ENCOUNTERS WITH INTERNATIONAL LAW:

LIVES, COMMUNITIES, SUBJECTIVITIES

EDITED BY TAMSIN PHILLIPA PAIGE AND

CLAERWEN O'HARA (ROUTLEDGE, 2025)

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In times of immense global unrest and upheaval, new ways of thinking about international law inspire hope that the future holds promise of something better. Queer theory emerged as an academic field in the 1990s¹ as a way to critique, problematise, and expose 'the mechanisms of power and discourse'.² The first edited collection on queer theory and international law³ was published by Dianne Otto in 2018. Otto's collection pushed the boundaries of law and legal thinking in its consideration of the implications of queer theory for international law and became 'field-defining'.⁴ Two new sibling edited collections, *Queer Encounters with*

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¹ See e.g.: Teresa de Lauretis, 'Queer Theory: Lesbian and Gay Sexualities: An Introduction' (1991) 3 *Differences* iii, v–vii; Eve Kosofsky Sedgwick, *Epistemology of the Closet* (University of California Press, 1990); Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (Routledge, 1990).

² Odette Mazel, 'The Textures of "Lives Lived with Law": Methods for Queering International Law' (2023) 49(1) *Australian Feminist Law Journal* 71, 71 ('The Textures of "Lives Lived with Law"'). See also Butler (n 1).

³ Dianne Otto (ed), *Queering International Law: Possibilities, Alliances, Complicities, Risks* (Routledge, 2018) ('*Queering International Law*').

⁴ Teemu Ruskola, 'Review: Queering International Law: Possibilities, Alliances, Complicities, Risks by Dianne Otto' (2018) 112(3) *American Journal of International Law* 540, 540.

International Law: Lives, Communities, Subjectivities ('*Queer Encounters*')⁵ and *Queer Engagements with International Law: Times, Spaces, Imaginings* ('*Queer Engagements*')⁶ take up the challenge of continuing the groundbreaking work started by Otto. Both collections originate from the aptly named 'Queering International Law 2.0' workshop held over two days in November 2022, jointly hosted by Deakin Law School, the Institute for International Law and the Humanities at Melbourne Law School, and La Trobe Law School. Many of the chapters in the two collections were first presented at the workshop and then refined and restructured before reaching their final published form.

The collections bring together chapters applying a queer lens to different and diverse areas of international law. Following the lead set by Otto, the collections do not seek, nor claim, to present a complete vision of 'queer international law' — indeed, doing so would not be very queer⁷ — instead the chapters traverse a wide range of topics and perspectives, responding to Otto's call for 'queer curiosity'⁸ as a way of approaching international law. The collections are highly heterogenous, with contributing authors from different geographical locations and from different stages in their academic careers, ranging from PhD students to senior professors. Indeed, one of the greatest strengths of these collections is the numerous insightful contributions from PhD students and early career researchers. Contributing authors come from across Australia, Brazil, France, India, Italy, the Philippines, Singapore, Switzerland, Thailand, the United Kingdom, and the United States of America, adding geographically diverse perspectives to the engagements and encounters with the diverse areas of international law discussed in the collections.

Law as a discourse of power enshrines heterosexual and cis-gendered practices and binary divisions.⁹ The first collection, *Queer Encounters*, explores the interactions of queer people with international law and seeks to navigate the risk that queer engagement with human rights may take 'the radicality out of queer rather than resulting in the queering of international human rights'.¹⁰ In this way, the queer theory in this collection is less about the method of analysing international law and more concerned with the 'expansion and enforcement of sexual rights and the legal recognition of sexual minorities more generally'.¹¹ In her foreword, Otto sets the scene for the chapters that follow, observing that

⁵ Tamsin Phillipa Paige and Claerwen O'Hara (eds), *Queer Encounters with International Law: Lives, Communities, Subjectivities* (Routledge, 2025) ('*Queer Encounters*').

⁶ Claerwen O'Hara and Tamsin Phillipa Paige (eds), *Queer Engagements with International Law: Times, Spaces, Imaginings* (Routledge, 2025) ('*Queer Engagements*').

⁷ Ruskola (n 4) 540.

⁸ Otto (ed), *Queering International Law* (n 3).

⁹ Mazel, 'The Textures of "Lives Lived with Law"' (n 2) 73.

¹⁰ See generally Paige and O'Hara (eds), *Queer Encounters* (n 5); Ratna Kapur, 'The (Im)Possibility of Queering International Human Rights Law' in Otto (ed), *Queering International Law* (n 3) 132.

¹¹ Ruskola (n 4) 541.

[p]ersonal histories and experiences of both pleasure and danger inform all our journeys with law, providing dynamic tools for exposing the dangers of law's claims to universality while also offering hope that law might yet play a role in creating a world that values all human and non-human life, rather than being part of the problem.¹²

Queer Encounters is divided into four parts, each containing chapters addressing a different aspect of the theme chosen for each part. Part 1, 'Queer Critiques of International and Regional Human Rights Law', examines the limitations of international human rights movements and international human rights law from a queer perspective.¹³ Matteo Bassetto's chapter explores the pathologisation of trans people and asks readers to reflect on the implications of trans suicidality as a human rights violation.¹⁴ Manon Beury's chapter interrogates the reluctance of the European Court of Human Rights to use the prohibition on discrimination found in the *European Convention on Human Rights* to provide relief for trans people, concluding that protection from discrimination will require radical societal change.¹⁵ The final chapter in Part 1, by Karen Engle, considers a queer abolitionist approach to the treatment of hate crimes.¹⁶

Part 2, '(Re)queering Human Rights Law: New and Alternative Directions', explores new ways of engaging with international human rights law from a queer perspective. Daryl WJ Yang's chapter explores the potential for international consumer protection laws to be applied to conversion practices because of their inability to make the queer subject straight.¹⁷ Warisa Ongsupankul's chapter explores the right to human rights education in the *Convention on the Rights of the Child* to promote queer visibility in children's education, allowing queer children to thrive.¹⁸ Part 2 concludes with Alexandra C Grolimund's chapter exploring the public/private divide through the lens of sadomasochism, examining how the European Court of Human Rights has engaged with this topic.¹⁹

¹² Dianne Otto, 'Foreword' in Paige and O'Hara (eds), *Queer Encounters* (n 5) xiv, xvi.

¹³ See generally 'Queer Critiques of International and Regional Human Rights Law' in Paige and O'Hara (eds), *Queer Encounters* (n 5) 13.

¹⁴ Matteo Bassetto, 'The Precarity of Trans Survival: Suicidality and the Right to Life' in Paige and O'Hara (eds), *Queer Encounters* (n 5) 15.

¹⁵ Manon Beury, 'Vague Comparisons and Unstable Grounds: The European Court of Human Rights and the Prohibition of Discrimination Against Trans Persons' in Paige and O'Hara (eds), *Queer Encounters* (n 5) 39.

¹⁶ Karen Engle, 'Abolitionist Human Rights: Queering LGBT Human Rights Advocacy and Law' in Paige and O'Hara (eds), *Queer Encounters* (n 5) 60.

¹⁷ Daryl WJ Yang, "'Nothing was Changing": Queering the Role of International Law in the Global Campaign Against Conversion Practices' in Paige and O'Hara (eds), *Queer Encounters* (n 5) 87.

¹⁸ Warisa Ongsupankul, 'Childhood as a Site of Struggle: a Queer Perspective on International Human Rights Law Concerning the Child-Protective Rationale and School Education' in Paige and O'Hara (eds), *Queer Encounters* (n 5) 108.

¹⁹ Alexandra C Grolimund, 'Sadomasochism at the European Court of Human Rights: Rights to Sex and Drawing the Line between Privacy and Public Interest' in Paige and O'Hara (eds), *Queer Encounters* (n 5) 127.

Part 3, ‘Queer Battlegrounds: ‘Gender’ in International Law’, turns to the question of ‘gender’ — this topic has become more controversial due to the rise of ‘gender critical’ and other anti-queer movements in recent times.²⁰ Giovanna Gilleri’s chapter calls for international human rights law to move away from dualistic constructions of ‘femininity’ and ‘masculinity’ and to instead recognise the infinite intersections of subordinate and dominative gendered subjects.²¹ Sandra Duffy’s chapter dissects how conservative campaigners have reframed ‘gender’ as an ideological framework resembling neo-fascism and implores human rights lawyers to be vigilant for, and to combat, anti-gender tactics wherever they encounter them.²² Duffy’s call for vigilance is even more important now than when the chapter was written. Juliana Santos de Carvalho’s chapter draws on the definition of ‘gender’ in the *Rome Statute* and the draft *Convention on Crimes Against Humanity* as a vehicle for exploring how bio-essentialist feminist interpretations continue to have a hold on international law.²³

Finally, Part 4, ‘The Shifting Nature of Queer Encounters with International Law: Journeys Towards Hope’, includes a series of contributions finding hope in the face of international law’s oppression of the queer subject. Odette Mazel’s chapter reads the work of three queer activists in international law through Foucault’s notions of ‘care of the self’ and the ‘art of living’, arguing for hope and optimism, for the ‘glitter’ in projects of respectability, and for doing things ‘fabulously’ in international law.²⁴ Loveday Hodson’s chapter takes a slightly less optimistic tone, observing that fluctuating between hope and despair is an inherent part of queer encounters with international law.²⁵ Finally, Edoardo Stoppioni’s chapter concludes that a better understanding of the genealogical epistemologies of queer theory could provide a freer and more colourful toolbox for (re)queering international law.²⁶ The chapters in this collection draw from, and build on, Otto’s approach to the critique

²⁰ See e.g.: Ruth Pearce, Sonja Erikainen, and Ben Vincent, ‘TERF Wars: An Introduction’ (2020) 68(4) *Sociological Review* 677; Fran Amery, ‘“Gender Critical” Feminisms as Biopolitical Project’ (2025) 28(3) *Sexualities* 1239.

²¹ Giovanna Gilleri, ‘Human Rights’ Harmful and Harmless Gendered Laws’ in Paige and O’Hara (eds), *Queer Encounters* (n 5) 153.

²² Sandra Duffy, ‘“Ideological Colonising”: the Influence of Anti-Gender Movements on Domestic and International Human Rights Law’ in Paige and O’Hara (eds), *Queer Encounters* (n 5) 175.

²³ Juliana Santos de Carvalho, ‘Fear of a Queer Law: Sex/Gender and the Exclusion of Queer Thinking in International Law’ in Paige and O’Hara (eds), *Queer Encounters* (n 5) 200.

²⁴ Odette Mazel, ‘The “Art of Living”: LGBTQIA+ Activism and International Law’ in Paige and O’Hara (eds), *Queer Encounters* (n 5) 222 (‘The “Art of Living”’).

²⁵ Loveday Hodson, ‘Queer Edens: Visions of Living with Human Rights’ in Paige and O’Hara (eds), *Queer Encounters* (n 5) 244.

²⁶ Edoardo Stoppioni, ‘Epistemologies Out of the Closet: Thinking Through Queer Theory’s Intellectual Shifts in International Law’ in Paige and O’Hara (eds), *Queer Encounters* (n 5) 262.

of international law, searching for opportunities for change and holding out hope for the 'emancipatory potential of the law'.²⁷

While the contributions to *Queer Encounters* expose international law's complicity in practices of inequality and 'how sexuality and sexual and gender norms are constituted and deployed by the law as organizing principles',²⁸ *Queer Engagements with International Law* applies queer theory to international law topics not directly related to gender and sexuality, including the environment, oceans, outer space, and cultural heritage. As Otto notes in her foreword, the chapters in *Queer Engagements* 'shake the foundations of several bodies of settled law'.²⁹ Of the two sibling collections, it is *Queer Engagements* that will be of most interest to those interested in critical approaches to international law and international relations, as the chapters in this collection provide new perspectives and ways of thinking about diverse areas of international law. Indeed, as the editors themselves note, this collection demonstrates that 'queering constitutes a methodological approach with an inbuilt freedom that can be used to question and unpack a range of topics beyond queer theory's site of origin',³⁰ embracing Otto's call to approach international law with 'queer curiosity'.³¹

Matching its sibling collection, *Queer Engagements* is divided into four parts, each containing chapters which provide insights into a range of international law issues. Part 1, 'Queering New Spaces in International Law: The Environment, Oceans, and Outer Space', applies insights from queer theory to previously un-queered areas of international law. Emily Jones' chapter applies queer theories of the nonhuman and kinship to propose an alternative vision of the subject in international environmental law, arguing that such a paradigm shift is required if we are to adequately tackle the core environmental challenges of our time.³² Gina Heathcote's chapter focuses on the oceans and explores how 'Ghost Ships' and humans-out-of-the-loop naval technology can become a means to see the ocean as agential, challenging the heteronormative desire of conquest and ownership.³³ Claerwen O'Hara and Cris van Eijk then look to the stars and examine the gendered, extractive, and militarised logics

²⁷ Hilary Charlesworth, 'Celebrating Di Otto' (2017) 18(2) *Melbourne Journal of International Law* 118, 119.

²⁸ Louise Arimatsu, 'Book Review: Dianne Otto (ed), *Queering International Law: Possibilities, Alliances, Complicities, Risks*' (2018) 29(3) *European Journal of International Law* 1023, 1023.

²⁹ Dianne Otto, 'Foreword' in O'Hara and Paige (eds), *Queer Engagements* (n 6) xii, xii.

³⁰ Claerwen O'Hara and Tamsin Phillipa Paige, 'Reaching Out Towards the Horizon: Queer Engagements with International Law Beyond Queer Theory's Site of Origin' in O'Hara and Paige (eds), *Queer Engagements* (n 6) 1, 8.

³¹ Otto (ed), *Queering International Law* (n 3).

³² Emily Jones, 'Challenging International Environmental Law's Heteronormativity and Anthropocentrism: Towards Queer Kinship' in O'Hara and Paige (eds), *Queer Engagements* (n 6) 17.

³³ Gina Heathcote, 'Oceans versus Ghost Fleets' in O'Hara and Paige (eds), *Queer Engagements* (n 6) 39.

in international space law, while observing ‘cosmic hope’ and the ‘capacity of outer space to inspire in us a belief that things could be different’.³⁴

Part 2, ‘Queer Encounters with Temporality and Coloniality in International Law’, begins with a chapter by Vanja Hamzić drawing on the example of 18th century Senegambia and the gender-nonconforming Mande griots (jeliw) to advocate for international law to focus on the local.³⁵ This is followed by Lucas Lixinski’s chapter queerly re-imagining international cultural heritage law by understanding heritage as an affective relationship, which matters to communities, recognising that intangible practices simultaneously are heritage and keep heritage alive.³⁶ Ruby Rosselle L Tugade’s chapter examines Philippine court decisions concerning violence against women and queer people by United States’ military officers, highlighting the gendered and sexual nature of (neo)colonialism.³⁷

Part 3, ‘Queering International Law’s Imaginaries: Reflections on Legal Myths and Methods’, explores the myths and methods of international law. Caitlin Biddolph’s chapter exposes the myth of ‘certainty’ in international criminal law through a queer reading of the International Criminal Tribunal for the former Yugoslavia, considering what new possibilities for justice arise when we understand international law as a practice in uncertainty.³⁸ Similarly exploring the possibilities that may come from accepting uncertainty, Cris van Eijk’s chapter, his second contribution to this collection, observes that ambiguity in interpretation ‘makes international lawyers uncomfortable’³⁹ and argues that the messy fluidity in *travaux préparatoires* should be embraced in interpreting treaties. Joanne Stagg’s chapter explores what queer judging in international law might look like through an exploration of consensus and dissensus models of judging, reflecting that queer judging ‘requires the interrogation of normative statements about social hierarchies, gender roles, family formation, and social norms’⁴⁰ and the prioritisation of humanity and empathy.

³⁴ Claerwen O’Hara and Cris van Eijk, ‘On Straightening and Subversion: A Queer Feminist Exploration of International Space Law and Politics’ in O’Hara and Paige (eds), *Queer Engagements* (n 6) 60.

³⁵ Vanja Hamzić, ‘International Law, Coloniality, and the Temporal Otherwise’ in O’Hara and Paige (eds), *Queer Engagements* (n 6) 85.

³⁶ Lucas Lixinski, ‘Rewriting Queer Markers of Identity: International Cultural Heritage Law, Criminalisation, and the Other’ in O’Hara and Paige (eds), *Queer Engagements* (n 6) 99.

³⁷ Ruby Roselle L Tugade, ‘The Filipina in the Shadows of International Law: A Case Study of Philippine Court Decisions’ in O’Hara and Paige (eds), *Queer Engagements* (n 6) 120.

³⁸ Caitlin Biddolph, ‘Queering (Un)Certainty in International Criminal Law: Reflections on the International Criminal Tribunal for the Former Yugoslavia’ in O’Hara and Paige (eds), *Queer Engagements* (n 6) 141.

³⁹ Cris van Eijk, ‘Uncloseting *Travaux*’ in O’Hara and Paige (eds), *Queer Engagements* (n 6) 161, 161.

⁴⁰ Joanne Stagg, ‘Queer Judging, Straight Up: The Queer Judge and Judicial Systems’ in O’Hara and Paige (eds), *Queer Engagements* (n 6) 185, 193.

Finally, Part 4, 'Queering Ourselves: Experimenting with Genre in Legal Academia' contains a single chapter exploring how genre experiments with academic forms, such as theatre, could help build and nurture a more collegial scholarly community.⁴¹ In this chapter, Danish Sheikh reflects on how the reading of his play, 'Contempt', during the 'Queering International Law 2.0' workshop was an instance of queering the workshop format, allowing emotions and vulnerability into the academic space.

While some chapters in these collections offer a critique of international law's violent and exclusionary tendencies, others seek to re-imagine international law and contribute to a broader reading of international law more generally, one that respects difference and allows for new possibilities. These collections, particularly *Queer Engagements*, demonstrate that for the ongoing vitality of international law, it is important to recognise and address 'law's complicities in perpetuating inequalities',⁴² imagine new possibilities, and take intellectual risks 'in spite, or because, of the perils that lie ahead'.⁴³ In expanding beyond the narrow confines of issues of gender and sexuality to explore previously un-queered areas of international law, these collections build on the groundbreaking work commenced by Otto and leave the reader with a sense of hope that things can be done differently (even, 'fabulously')⁴⁴ in international law.

⁴¹ Danish Sheikh, 'Repairing (the) International Law (Conference): The Affordances of Theatre' in O'Hara and Paige (eds), *Queer Engagements* (n 6) 209.

⁴² Arimatsu (n 28) 1028.

⁴³ Ibid.

⁴⁴ Mazel, 'The "Art of Living"' (n 24) 243.