

Governmentalities of Disorder

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response:ability

Anna Tijoux, [Niñx](#)

Michelle Staggs Kelsall on [Dis:Order](#)

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Who isn't tired of the 'rule of law'? [Celebrated](#) in its prime as the 'nearest we're likely to come to a universal secular religion', it no longer seems like an ideal inviting powerful political attachments. An epitome of the decade's empty universalism and depoliticizing drift in the domain of 'global governance', 'rule of law reform' feels [very 90's](#) – like grunge, pagers or Windows 95. 'Many of us', John Haskell [writes](#), 'find ourselves in the rule of law without knowing exactly how we ended up here or no longer feeling driven by the same motivations that we once experienced'. This sounds like an understatement. A rationality of [international liberal reform](#), an abstraction from [material modes of production](#), a reflection of hierarchical [modernist subject/object dichotomies](#), a project for [containment and control of subaltern subjects](#), a [fig leaf](#) for long historical lineages of Western hegemony, (neo)colonial violence and resource extraction – the international 'rule of law' and the liberal order it produces have been key targets of critical scholarship. When facing contemporary genocidal violence, invocations of this 'rule of law' – in [epistolary](#) or other forms – then evidently seem [insufficient](#) and [half-hearted](#) ('we know the law can't save us, but...'). Yet, they often appear [inevitable](#) when confronted with the realities of social mobilisation and resistance ('if you don't do international law, international law will do you'). And so, around and around we go in oscillations between the [tactical and the strategic](#), in the enduring Groundhog Day of division and discontent.

If you recognize this sense of being stuck, Michelle Staggs Kelsall's rich and inspiring '[Disordering International Law](#)' will speak to you and stay with you. In a register that verges on the therapeutic, Michelle draws the contours of a critical consciousness – a 'disordering sensibility' – that enables a shift from disappointment and disavowal to change and renewal. Its diagnosis? A compulsion in critical work to

(re)turn to the liberal international legal order as an analytical reference point. There is a resonance here with Ben Golder's [critique](#) on the redemptive structure of critical human rights scholarship, yet also a move beyond it: the problem, for Michelle, is not the latent reification of or return to the emancipatory promises of liberal international law but an apparent inability to 'jettison it altogether' as an authoritative map of the world in which to intervene (731). This is a profound and radical argument on international law's performative power – on how subjects are enacted and lines of mattering or worlding are drawn (and can be redrawn) in its operations. Part of the violence of the liberal international legal order then lies in the world it has on offer – a series of ontological hierarchies and cuts that critical work, Michelle argues, tends to replicate or reproduce (753-754).

The Critical Longing for Disorder

Its remedy? Multiplication, decentralisation, disordering – a plea to attend to the plurality of 'spatial and temporal orders' in the interstices of the international (729, 731-732, 745). This 'disordering sensibility' promises to enrich the existing critical repertoire by providing an affirmative vision of international legal pluralism in spatial, temporal and subjective terms. It is a vision where, inspired by [Ratna Kapur's notion of non-dualist subjectivity](#), the binary codes of modern international law are broken and where 'freedom [is] delinked from the state' (verging towards trending [debates](#) on forms of freedom prior to the modern state sparked by [Against the Grain](#) and [The Dawn of Everything](#)). It is an opening towards temporalities and subjectivities lingering in the [underworlds](#) of international law and always at risk of erasure – from the 'alternative temporal universalisms' (742) instantiated by the Aboriginal concept of 'The Dreaming' to the subjectivities of land (*djang*) as a 'source of the law' (755-756). Throughout, Michelle's disordering sensibility invites Indigenous and non-Western epistemologies to suspend and disrupt international law's key concepts and categories – an [opinio juris communis](#) of spatio-temporal multiplicity, relational entanglement and epistemic pluralism.

In a sense, '[Disordering International Law](#)' guides us along [familiar critical routes](#). Dissatisfied with the reductive modernist maps of liberal order, it leads where a critical canon has long led us: to the experimental and disruptive, the multiple and deterritorialized, the decentralised and disordered, the [local](#), [indigenous](#) and [out of place](#). In its suspension of either/or binaries, we hear a resonance of Deleuze's [Difference and Repetition](#) – a negation of oppositional codes in favour of unscripted [lines of flight](#) and emergent relational compositions of being and becoming. In its aspiration for non-dualist freedom, there is an echo of the [cyborg](#)'s 'spiral dance' celebrated by Haraway as a promised pathway out of the 'maze of dualisms' imposed by conditions of liberal modernity. In its focus on relationality and more-than-human agency – the law *within* the land – there is a critical affinity with registers of entanglement and an opening to the [multiple materialisms](#) of international law – to the 'morass of worlds colliding' (756). This direction toward disorder has a latent philosophical lineage – '[t]here are the builders of systems, the architects of enclosure and addicts of totality', George Steiner [reflects](#) in *The Poetry of Thought*, '[a]nd there are the raiders, often solitary, on meaning and the world, the technicians of lightning striking as it were from the periphery'. Histories of modern thought

based on the ‘presumption of articulate order in reality’ are shadowed by this ‘sense of the fractured, possibly random tenor of the phenomenal’ – a ‘disordering sensibility’ that, as Michelle’s piece shows, lends itself perfectly to a move beyond the inhibiting enclosures of liberal legal order. What would international law look like if not designed and called upon by ‘architects of enclosure’? In framing this question, Michelle has enriched and redirected the field of critical international law.

The Disordering Sensibilities of Neoliberalism

And yet, while nodding along the lines of Michelle’s evocative piece, I can’t shake the sense that I might be in awkward company. Why the discomfort with disorder? In reflecting on [the social tense of this critical repertoire](#) at the current conjuncture – how it exists and performs within the world today – it is useful to pause at the remarkable titular return of ‘disorder’ in an article published only a few *EJIL* issues later: Andrew Lang’s ‘[Global Disordering](#)’. Diagnosing the workings of ‘disorder’ in a different register, Andrew argues that the neoliberal project (a critical target in Michelle’s piece) should not be understood – at least not exclusively – as a programmatic universal order of optimal state-market relationships but rather as a ‘set of techniques for displacing the question of social value’ in relation to the ‘disenchantment or desacralization of the social state’. Neoliberalism, he notes, can thereby be seen as a ‘mode of governmentality ... for addressing the specific pathologies of the social state by promising a modality of statecraft that [is] decentralized rather than subject to singular control; dynamic rather than rigid and inflexible; open-ended rather than narrowly teleological; and modest rather than hubristic in its claims to knowledge’ (Lang, 2024, 108). This is not the universalist, rational ‘rule of law’ that Michelle’s piece works against (731). Neoliberalism, from this perspective, is marked precisely by a series of governance technologies designed to trade the rigid values-oriented modes of international legal ordering for a competitive process defined by sensibilities of disenchantment and disorder – described by Michelle as central to critique (754). Not all in the ‘critical’ community will find themselves entirely at ease in the social state that figures as implicit normative benchmark of Andrew’s argument, but the dynamics of disenchantment and disordering that the piece so carefully traces are undoubtedly disconcerting and familiar.

This is what I observed in [my own empirical work](#) on the [World Bank](#): how the rigid formal order of the ‘rule of law’ was traded for a ‘[new normative architecture](#)’ of risk and resilience productively attuned to conditions of uncertainty. It is on the terrain of professional sensibility, indeed, that this change was enacted: international lawyers were no longer expected to loyally stick to the binary codes of legal ordering but to enhance their ‘[risk appetite](#)’ and target the ‘transformational rewards’ that a more dynamic, decentralised, deformalized, disorderly professional posture could offer. It is the ability to capitalise on [contingency](#) through a heightened ‘disordering sensibility’ – and not the commitment to ordo-liberal restraint – that seems to mark the neoliberal condition (and its impact on international law). In this light, the diagram of dichotomies between *order* (liberal, universalist, dualist, reductive) and *disorder* (experimental, pluralist, non-dualist, emancipatory) might not have the critical power it once had. (This is a variation on wider reflection on [why critique has run](#)

[out of steam](#) in social theory in general and in relation to [critical international law](#) in particular). There is a remarkable and perhaps telling evolution, in this sense, between Slobodian's [Globalists](#) – on the ordo-liberal structure of post-imperial capitalist relations – and his recent of [Crack-Up Capitalism](#) – which could be read as an analysis of the dreamscapes of disorder and the departure from the state that shape contemporary (anarcho-)capitalist practices, aspirations and experiments.

Critical Complicities (In a World of Disorder)

This also connects to the vision of freedom that inspires Michelle's argument – a freedom that is 'delinked from the state' (755). The piece provides a powerful affirmative vision of this non-dualist freedom prior or in parallel to modern statehood, which draws on the knowledge of Indigenous communities and those written out of the world of international law (a move that is always at risk of [instrumentalising](#) Indigeneity in neoliberal schemes of resilience). Yet, it is surely not only in the realm of Indigenous activism that this 'disordering sensibility' of 'delinking' freedom from the state has taken root. It is a vision also animating the (anti-)politics of tech libertarians such as Peter Thiel who, [convinced](#) of the incompatibility of democracy and freedom, set out to explore '[new space\[s\] for freedom](#)' – an exploration of 'new frontiers' that guides Thiel and his allies to cyberspace, [outer space](#), and the oceanic spaces of [seasteading](#). Technologies of this 'delinking' are now seen to be available with the jurisdictional possibilities of blockchain enabling [cryptosecession and cryptostatecraft](#) – a revolutionary freedom of exit and political experimentation. Surely these are not the lines of flight that Michelle's article seeks to inspire but there is an eerie resonance across these projects of 'disordering': is the aspiration of seasteading not precisely to multiply and pluralise spatio-temporal orders in the interstices of the international and beyond the reach of sovereign states? Many of the arteries of power that we traced in the [underworlds series](#), in this sense, indeed emerged disorderly from the multiplicity of spatio-temporal orders – from the shadows of sovereignty and statehood.

Similar ambiguities arise in relation to questions of legal subjectivity. Michelle's piece criticizes the narrow binary categories through which liberal forms of legal ordering enact and rank subjects. It provides a powerful indictment of the 'normative coercions of subject formation' (736) that are at the core of international law's classificatory operations and have been the target of varying strands of postcolonial, posthumanist and new materialist critique. Yet, with the expanding prevalence of (global) [governance by data](#), subjects are increasingly composed more as [fluid inferences, patterns and propensities](#) than as unitary abstractions of individual agency and autonomy. In my own work on [virtual borders](#), and in collaboration with Marie Petersmann, we reflected on this recomposition of subjects as emergent [clusters of inferred attributes](#) – pulsing patterns in curated flows of data. To insist on the disordering of liberal subject categories – as 'bounded entit[ies] with fixed markers' (736) – risks reinforcing precisely these emergent and troubling entities of algorithmic governance. When the floor of liberal subjectivity falls from under our feet, we might not find ourselves dancing the 'spiral dance of the cyborg' but dissipate instead into the transient collectivity of the cluster. None of this is set in stone, of course, but it raises the stakes of critical strategies and complicities.

In many spheres of global governance, promises of universal value, stable spatial delineation, linear temporality, systemic ordering or rigid legal classification along formally unfolding binaries belong – in certain significant ways – to the world of yesterday. The practices of global security governance on which my current work [focuses](#), in this sense, are not marked by the ‘systemic function or neat arrangement of legal ordering’ (758) that Michelle invites us to ‘disrupt’ but by a logic of emergent inferences, fragmented spatial compositions, speculative temporalities and fluid subject positions. Might it be that the ‘liberal protocols’ (731) foregrounded in critical scholarship thereby no longer wield the authority they once did? That the classical nemeses of critique which return in Michelle’s article – the state, the ‘rule of law’, the truth, the universal – have lost their performative power (at least to some extent)? Might it be that [critical moves have been metabolized](#) in current governance routines? How to engage, in short, with what can be described as contemporary *governmentalities of disorder*? Would a ‘disordering sensibility’ not amplify those operations already underway?

Multiplying and Materialising International Law

To be clear: none of this implies that the terrain of ‘disorder’ has irreversibly been rendered toxic or that only a return to the stable concepts and subject categories of international law can protect us. Yet, it does, in my view, mean three things. First, there is nothing inherently progressive, safe, critical or desirable in a ‘disordering sensibility’. The orientation towards either order or disorder is politically and ideologically indeterminate. Second, and building on this, I think we should remain attentive to the ordering capacities of disorder – the constant movements from [deterritorialization to reterritorialization](#) – and how power and resources are distributed in this process. This is where Michelle’s piece articulates perhaps its most powerful political claim: in its plea for a redistribution of power away from international law’s ‘architects of enclosure’ to locally affected communities, it articulates a bold vision of disordering as an invigorated *opinio juris communis*. Yet, in facing forms of seasteading and cryptostatecraft – the neoliberal order of disorder – a (re)assertion of collective political agency might hinge on the institutional levers and jurisdictional schemes of statehood that a ‘disordering sensibility’ aspires to unravel. In relation to these distributive stakes in a context of indeterminacy, any *a priori* commitment to a logic of disordering can, in my view, only be aesthetic. Third, inspired by and building on Michelle’s refusal ‘to frame any new, alternative grand narrative for international law’ (732), expanding the ‘imaginative possibilities of critique’ (733) might require radically decentring (international) law and tracing how its institutions, norms and principles are [metabolised in emergent governmental dispositifs](#) – from the [sensory economies](#) of [environmental modelling](#) or [digital humanitarianism](#) to the [politics of possibility](#) that mediate practices of [security](#) and [surveillance](#). This can multiply, in line with Michelle’s plea, the spatio-temporal locations and material forms of our interventions – from the toxic soil to the planetary scale, from the discursive to the [infrastructural](#) – and allow us to trace, refuse or contest how boundaries are drawn between what matters and what is excluded from mattering in shifting configurations of [global dis/ordering](#) – a crucial and collective critical task that Michelle’s brilliant piece foregrounds.

