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Emotional accountabilities: Affective autoethnography and writing queer judgments

Senthorun Raj
Manchester Metropolitan University, UK

Abstract

Queer encounters with legal accountability generate a range of tensions and paradoxes. In law, accountability materialises as a core feature of legal systems that seek to hold individuals and institutions responsible for their behaviour according to a set of predetermined state criteria. Queer scholars have approached legal logics of responsibility with scepticism as these logics are indexed by heteronormative state criteria. Queer legal work holds space for queer critique without necessarily abandoning normative criteria. It navigates queer scepticism through critiques, refusals, and calls for legal accountability across individual, interpersonal, and institutional contexts. This is emotional work. In this paper, I demonstrate narratively how emotions pervade how we (as queer legal scholars) imagine, conceptualise, and approach socio-legal questions of violence, discrimination, inequality, and exclusion facing LGBTQ + people and how we (as queer people, lawyers, and activists) work with or against legal institutions to seek accountability and realise our rights. This paper adopts an autoethnographic approach to invite scholars, lawyers, activists, and judges to explore the law's capacity to both remedy and effect harm against LGBTQ + people by taking seriously how emotions mutually co-construct the normative dimensions of LGBTQ + rights alongside the critical forms of accountability rights claims generate. I do this through a close reading of *R v Green,* an Australian criminal law case that deals with "defences" for homophobic violence. Emotion offers an analytic lens to expose personal (queer person), scholarly (queer academic/lawyer), and political (queer activist) entanglements with various accountabilities generated by the case. I use affective autoethnography to draw together the normative and analytic dimensions of emotions across personal, scholarly, and political registrations of accountability by discussing the

Corresponding author:
Senthorun Raj, Reader in Human Rights Law, Manchester Law School, Manchester Metropolitan University, SB 6.23, MMU, Lower Ormond St, Manchester M15 6BH, UK.
Email: s.raj@mmu.ac.uk

process of writing a "queer judgment" of *R v Green*. The queer judgment, as an exercise in accountability, is an affective object of law, method of critique, and space for ethico-political engagement. This creates space to pursue legal accountability in terms of care and imagination while also questioning or broadening the terms by which such accountability is delivered in law.

Keywords
Queer, emotion, law, autoethnography, critical legal studies, judgments

Introduction

To speak about queer activist, scholarly, lawyerly, and judicial pursuits for justice is to enter a series of emotional conversations. These emotions take shape through the time, labour, and exposure involved in seeking legal means to remedy social ills or personal injuries. In 2021, two colleagues and I began a conversation about a new project, "Queer Judgments." We conceived of this project to confront how judgments, even when they further the rights of sexual and gender minorities, fail to account for the nuanced lives of those who are minoritised because of their sex, sexuality, and gender. Inspired by recent critical judgments projects that sought to bring minoritised (feminist, decolonial, youth, environmental) perspectives to the re-imagining and re-writing of judgments, we spoke passionately about how important it was to create space to bring queer activists, lawyers, and scholars together to have a conversation about what justice might look like for "queered" communities (Ferreira et al., 2025: 3-5). Our initial conversations oscillated around the relationship between justice and accountability as we sat uncomfortably with the tension of bringing together "queer" (as an anti-normative disposition and fluidity) with "judgment" (as norm creation and discipline). We began asking a range of questions which helped our project take shape. Can a judgment be "queer"? If so, what is a queer judgment? Who is a queer judgment for? Why is queer judgment writing important? How do we write queer judgments? When and where might queer judgments have greatest impact? These questions and related conversations were motivated by feelings of responsibility: we felt responsible (as critical legal researchers) for challenging the norms of law that (re)produced stigma, violence, and inequality against queer people, we felt responsible (as queer activists) to our communities to think about how we might craft pathways for visibility and justice, and we felt responsible (as queer people) for each other in curating communities where we could come together to find and express queer joy. These forms of responsibility were, and continue to be, mutually constitutive. Emotional entanglements with accountability are contingent, exposing our personal, scholarly, and political commitments to how we think about accountability and our aspirations to mobilise different articulations of responsibility as a means of delivering justice. This paper attempts to "feel out loud" with these entanglements by detailing how my experience as a scholar, activist, and hypothetical judge has shaped, and speaks to, doing queer legal work.

At the time of starting this collaborative project, I had begun to undertake research about, and advocacy against, "conversion therapy." Several countries had proposed (or enacted) a legislative ban on medical and therapeutic practices designed to change or suppress a person's sexual orientation or gender identity (Gerber et al., 2021: 7-8). In reading/hearing testimonies by survivors of these practices across social media, I was reminded of the shame and pain I endured as a child, and the resentment I felt, growing up at a time where my effeminate demeanour (desire to wear lipstick, play with Barbies, dress up in high heels) was policed by other children who called me a "sissy." While not a formal conversion practice as such, the verbal taunts I experienced as a child cultivated a sense of deficiency and failure that made me think about my gender expression as deviant and this made me feel alienated from my identity as a boy, a Tamil, an Australian. My personal experience made me acutely sympathetic to those survivors who spoke about their pain and shame while pursuing a legislative ban to end stigmatising practices that lead to harmful forms of sexual or gendered alienation like the kind I experienced as a child. I felt anger, too. Those who enabled such abuses deserved to be made accountable through state sanction. Yet, as politicians began to take the testimonies of survivors more seriously, many of the political proposals mooted at the time to ban conversion practices (including the one in the United Kingdom) focussed on professional misconduct (Trispiotis, 2023: 14). They did not seek to address varied forms of spiritual and familial abuse. These bans also positioned criminal law as the most desirable means of remedying those harmful practices identified. I felt uncomfortable about such reform proposals. I was disappointed by the failure of law to reckon with the most mundane and pernicious forms of homo/bi/transphobia that materialise interpersonally through social and familial contexts. I was also anxious about how legislatively transforming homo/bi/transphobia into an exceptional problem of individual criminality (since the criminal law is generally about holding individuals culpable for wrongdoing) would result in obscuring institutional forms of homo/bi/transphobia that sustain conversion practices. In response to this, I began to speculate about what alternative reform proposals might look like, ones that took seriously the individual pain and shame of survivors but refused to tokenise them institutionally in ways that risked ignoring structural conditions of homo/bi/transphobia.

In *States of Injury,* Wendy Brown (1995: 8) reminds us of the "tension, if not the antinomy, between freedom and institutionalization" by exploring how "ressentiment" (the desire to return injury to the subject which causes it) and redirection of anger shape liberal articulations of (gay) rights. My emotional responses to banning conversion practices echo the tension identified by Brown. I found myself feeling punitive and vengeful about individual homophobic actors (priests, parents, counsellors) and thinking individually about rights and identity as a reparative means to secure the bodily integrity of LGBT individuals affected by conversion practices. Desiring rights in this way occluded political conditions that enabled institutionalised homo/bi/transphobic violence (Brown, 1995: 67; Brown, 2002: 422).

Thinking with Brown, and feeling my way through desires to ban conversion practices to end homophobic violence, takes me back to a case I studied as an undergraduate student, *R v Green*. In this case, a man viciously killed an acquaintance and claimed his action was excusable because his acquaintance made a same-sex sexual advance towards

him. At the time, I felt disgusted and angry that criminal law was a vehicle to facilitate the killer's homophobia by reducing his offence from murder to manslaughter. I remember feeling hopeful that a reform would be introduced (and it was) to ensure the criminal law stopped making homophobic excuses permissible and sanction perpetrators with tougher sentences. However, as my work on conversion therapy several years later revealed, homophobias and the interpersonal conflicts they generate do not dissipate by pretending they are confined to violent bigots.

My experience navigating personal, scholarly, and political desires to remedy homo/bi/transphobia through legal processes alongside frustrations over the limitations of law demonstrate the paradoxical emotional entanglements that underpin queer engagements for personal, scholarly, and political accountability. I offer the vignette at the start of this paper to distil how accountability materialises as a fraught and contingent affective concept across queer personal, scholarly, and political registers with different theoretical underpinnings. Queer scholars have resisted demands for accountability in contexts where "becoming responsible" involves capture and categorisation by neoliberal socio-political indices that value identity, heterosexuality, monogamy, productivity, surveillance, and privatisation (Kafer, 2013: 17; McGlotten, 2014: 263; Stanley, 2021: 5-9). As Kara Keeling (2019: 12) notes, we need to be wary of techniques of responsibility and knowledge production that "can work as a mechanism of control."

In this paper, I think through our paradoxical and tense entanglements with accountability when writing queer judgments by foregrounding emotion. As gestured to above, I take "queer" with me, with its emotional troubles, across different registers: as a description of non-normative sexual and gender identities, an analytic lens that exposes normative social arrangements that organise around heterosexuality, reproduction, productivity, and a political praxis invested in making room for non-normative lives, communities, and intimacies to flourish in the face of interlocking oppressions (Ahmed, 2006: 65-107; Raj, 2020; Cohen, 1997: 442; 4-6; Fischel and Cossman, 2024: 4-8; Sedgwick, 1993: 8). The theoretical ideas underpinning these registers coalesce with, and trouble, each other. Queer judgments embody these contradictions at an affective level. On one hand, they seek to critique socio-legal norms that cohere the value of social reproduction, gender conformity, sexual monogamy, and privatised responsibility. On the other hand, by refashioning critique through the expression of judgment, a logic of governance, they (re)produce norms to make legible specific ideas of identity, intimacy, and injury. Queer legal work, in other words, involves trying to find alternative pathways for law when you are simultaneously disturbed by judgments that caricature sexual or gender diversity in hostile terms and are also worried about judgments that "progress" legal recognition for LGBTQ + people in ways that narrow what injury, intimacy, and identity can mean.[1] While I focus on LGBTQ + populations in this paper, the critical method I embody has resonance for other communities and individuals navigating the contingencies of law (including those who occupy positions of social privilege).[2]

Emotions are not a prediscursive, physiological phenomenon isolated to individual bodies – but are performative enactments with social currency. Drawing on queer affect scholarship, I conceive emotion as a social language that refers to embodied sensibilities, modes of impression and texture, and techniques of movement (Ahmed, 2004: 6, 9, 11;

Lorde, 1984: 131; Sedgwick, 2003: 15, 21). My paper builds on thinking about what emotion does to us to outline a praxis of "affective autoethnography" that navigates personal, scholarly, and political articulations of accountability in pursuits of LGBTQ + rights.

Accountability is an emotionally constitutive process of becoming responsible. It involves a recursive relationship of exposure (making visible homo/bi/transphobia in law and society), acknowledgment (recognising failures or complicities of individuals, as well as legal and social institutions), and remediation (providing individual, legal, or social redress to those who have experienced homo/bi/transphobia). As Judith Butler (2005: 37, 113) observes, giving an account is to "make [oneself] recognizable and understandable" and to engage in self-examination that involves "externalizing or publicizing oneself," which enables us to identify and remedy deficiencies. Accountability involves "noticing" what has gone unnoticed or ignored and transforming "silence into language and action" (Ahmed, 2017: 32; Lorde, 1984: 43). Accountability is a fluid and plural concept. Accountability emerges through a process of exposure, acknowledgment, and remediation that is contingent on the emotional terms of its articulation. This emerges whether we speak about it as a personal matter of our conscience, a professional expectation of rigorous academic scholarship, or a political endeavour for justice. While accountability has been theorised, critiqued, and practised across a range of personal, scholarly, and political arenas, I seek to offer a novel theorisation in this paper to demonstrate how emotions materialise to structure forms of personal, scholarly, and political accountabilities across legal frontiers invested in the pursuit of LGBTQ + rights. This theoretical endeavour is significant if we (as queer individuals, scholars, lawyers, activists, communities) are to pursue accountabilities through/alongside/against law in ways that enable queer and trans lives to flourish.

I begin the paper by outlining the importance of accountability as a normative concept in legal rights, scholarship, and law reform focused on the lives of lesbian, gay, bisexual, transgender, queer, and other (LGBTQ+) populations.[3] I thread literatures on legal positivism, law and literature, critical race theory, feminist legal theory, and queer legal theory to outline the disparate ways accountability features in personal (rights), scholarly (critiques), and political (reforms) registers that focus on addressing the stigma, violence, and discrimination faced by LGBTQ + people. By doing so, I draw out how these complementary and contested forms of accountability might be "queered" by paying greater attention to how emotions structure the terms of their articulation.

I then turn to autoethnography as a critical methodological intervention to expose the connections between personal, scholarly, and political accountabilities. By bringing queer affect, decolonial, and feminist theories into conversation with emerging scholarship in law and emotion, I return to the Queer Judgments collaboration to explore how emotions function performatively to produce the varied social, legal, ethical, and political terms which we (as individuals, scholars, communities) use to conceive accountability. In this section, I examine how accountability is an emotional exercise of exposure, one which foregrounds the vulnerability, risk, and discomfort involved in pursuing affective autoethnography from a personal, scholarly, and political perspective.

The paper uses affective autoethnography to undertake an exercise of queer judgment writing and illustrates how personal, scholarly, and political accountabilities are emotionally threaded. I discuss re-writing an Australian criminal law case, *R v* Green (1997), and how emotions (particularly disgust) make visible the personal, scholarly, and political accountabilities at stake. In theorising the emotional articulations of accountability through the process of writing a queer judgment about the case, I explore some of the tensions that emerge between addressing structural homophobia, recognising criminal responsibility, and repairing homophobic violence. I conclude the paper with a reflection about why giving an affective theorisation of accountability is significant for those of us interested in remedying the violence faced by queer and trans people. This is not about romanticising accountability through a normative legal lens or divesting from accountability through a queer lens that eschews measures, indices, and fixed identities. Rather, parsing the varied forms of accountability as they are emotionally produced across personal, scholarly, and political registers of law is crucial to expose individual, interpersonal, and institutional tensions that emerge when conceptualising, and trying to remedy, homo/bi/transphobic harms. This emotional queer legal work allows us to think creatively and openly – while holding onto uncertainties – about how we might conceptualise, critique, and/or use law as we seek amends for harm.

Queering accountability through rights, critiques, and reforms

LGBTQ + people are enmeshed in a struggle to realise their rights in hostile political environments that deem such rights as socially corrosive at worst and conditional at best. Rights struggles materialise as socio-political contestations about the nature of discrimination, inequality, and violence faced by LGBTQ + people as well as socio-legal debates over the terms by which such harms ought to be remediated (Gerber et al., 2021; Raj and Dunne, 2020). These struggles form varied personal, scholarly, and political accountabilities: individuals or communities who disclose experiencing homophobic violence expose harms perpetrated through interpersonal acts and institutional settings and this exposure creates the space for scholarly critiques and political reforms to acknowledge the nature of such harms and offer remedies to treat them (Kirsch, 2000: 103; Raj, 2020: 4). Queer scholar-activists contest state governance as an effective remedy and query state demonstrations of accountability (Duggan, 1994; Keeling, 2019; Stanley, 2021). They note accountability for the state materialises through heteronormative social indices of matrimonial coupling, economic productivity, and sexual privacy. This form of state-centred accountability reduces queer lives to "a time of queer/trans death" (Stanley, 2021: 6) and queer resistance warrants us becoming "ungovernable, anarchic here and now" in relation to the state (Keeling, 2019: 32).

Bringing accountability and queer together reveals their plural and paradoxical forms. Accountability is an anchor for angry and hopeful rights-seeking queer individuals invested in using law to hold other individuals or institutions to account for human rights violations. Accountability becomes relevant for queer scholars as they account for state practices of minoritisation that harm sexual and gendered "outlaws" and remain suspicious of law's capacity to account for these structural harms. Accountability organises

political and legal reforms that account for individual LGBT lives and produce individual and institutional remedies for homo/bi/transphobic harms. The affective convergences and tensions between these different queer personal, scholarly, and political engagements with accountability speak to how "queer" paradoxically embraces antinormativity as a critical theoretical strategy while institutionalising antinormativity as a norm of social critique (Wiegman and Wilson, 2015: 4). This section contextualises these paradoxes by exposing how emotions materialise to queer, and cohere, the terms of accountability which produce personal rights, scholarly critiques, and political reforms.

Personal rights

LGBTQ + rights claims in law emerge through individuals advocating the normative importance of legal accountability. Legal accountabilities take the form of individual or collective apologies for historic wrongs (Minow, 2015), mediation to resolve interpersonal conflicts (Acorn, 2004), incarceration for violent wrongdoing (Haritaworn, 2013), judicial review of human rights violations (Gerber et al., 2021), and compensation for civil discrimination (Ahmed, 2012). Legal accountability involves (legislatures, courts) formally setting the norms by which (private) individuals and (public) states become responsible for their behaviour and the processes by which they are asked to give an account of their actions when required (Dworkin, 1986: 210; White, 1985: 40, 63). Taking responsibility is an active task that oscillates between individual, interpersonal, and institutional vectors. As Davina Cooper (2019: 70) writes, "public responsibility [is] something that particular bodies can hold and take up, where what is done is not the entirety of what could be done." The point here is that the task of becoming accountable – of taking responsibility – is a normative endeavour anchored in the optimistic promise of doing more and being better. Accountability is performative: it is an affective expression that constitutes individuals who seek accountability as well as the institutions who set the terms for it.

We (as scholars) can look to how homophobic violence materialises through interpersonal encounters of disgust as well as institutional environments of abjection to understand how accountability becomes an affectively normative matter for securing personal rights (Stanley, 2021: 5). Take the case of *R v Green* (the queer judgment I discuss below) as an illustrative example of how interpersonal forms of homophobic violence (physical assault, sexual violence, verbal taunts) are accounted for by homophobic institutions (courts). In this Australian case, Malcolm Green killed his friend Donald Gillies because Gillies made an unwanted sexual advance towards him while Green spent the night at Gillies' house. Green confessed, "I killed him, but he did worse to me… he tried to root me" (*R v Green*, 1997: [391]). In accepting Green's revulsion over his friend sexually propositioning him, the High Court of Australia partially exculpated Green's lethal conduct by making available to him the defence of provocation.[4] What is notable about the case is the way in which individual responsibility for criminal wrongdoing (Green's act of homicide) is conditioned by state homophobia (the "homosexual advance defence"). The Court identified with Green's attempt to relativise/excuse his wrongdoing by jurisprudentially rendering the "force" of a same-sex advance

and the "revolting" nature of its proximity to heterosexual men (*R v Green*, 1997: [346, 370]; Raj, 2020: 36-39; Raj, 2025). As a result, Green's responsibility for killing Gillies could be reduced from murder to manslaughter. Gillies' sexual flirtation was deemed of sufficient gravity to cause an ordinary person in Green's position to act in the way he did. Provocation functioned to contain individual accountability for homophobic violence.

Green's personal disgust of Gillies crystallised the terms by which the Court conceived of Green's accountability for homicide. Disgust materialised individually for Green through his encounter with queer contact and visceral repudiation of that contact (Ahmed, 2004: 85). In rendering Gillies' sexual advance through judicial rhetoric of force, violation, and recoil, the Court institutionalised and effected its own disgust towards homosexuality that rendered it both corrupting and provocative. Judicial enactment of disgust served to expose homosexuality as threatening while acknowledging the susceptibility of individuals (like Green) to feel disgusted when confronted by it. The emotional exposure and acknowledgment of the purported harm of homosexual intimacy created the conditions for provocation to function as an individual legal remedy, in this case a criminal excuse, to limit Green's actions to manslaughter.

Green's homophobia and its associated legal sanction speak to a broader history of sexual policing through disgust (Haritaworn, 2013; Howe, 1997; Kirkup, 2024; Tomsen, 2006). This has prompted resistance by queer individuals (those with non-normative sexual or gender identities) who have turned to law for corrective action, by refracting the policing impulses of law away from sexual minorities towards those individuals who violate them, most notably in litigation to decriminalise homosexuality and lawmaking to proscribe hate crime (Fischel and Cossman, 2024: 12-13; Raj, 2020: 53). If *R v Green* illuminates the affective institutional terms by which individual responsibility for homophobic violence is obscured, then recent litigations by LGBTQ+ people have aimed to contest these affective terms and make individual accountability matter. As Gerber et al. (2021: 5) note, "discussions regarding same-sex relationships have gone from taboo to almost fashionable." Taboos have changed as socio-legal conditions of exposure, acknowledgment, and remediation shift the terms of legislative/legal disgust from the violated queer person to the violent homophobe (Haritaworn, 2013: 77; Nussbaum, 2004: 114; Raj, 2020: 43). In other words, legal disgust exposes the brutality of physical homophobia perpetrated by individuals (such as Green's murder of Gillies) and institutional concessions to such homophobia (such as a provocation defence that protects against "homosexual advances"). In New South Wales, Australia, an amendment to provocation law was introduced after extensive lobbying to explicitly exclude the scope of homophobic bigotry (*Crimes Act, 1900*: section 23(3) (a)).

Legal exposure and acknowledgment have been made possible by the normative effects of disgust that elevate the rights of LGBTQ + people to live without stigma and abuse by repudiating those bigots who would perpetrate violence against them. This act of socio-legal abjection functions to materialise criminal sanctions as the primary means of reparation, as homophobes are now held personally responsible for their behaviour and are punished accordingly (Mison, 1992: 136; Stanley, 2021: 4). Criminal sanctions mobilised by legislative/legal abhorrence become the normative standard to evaluate the harmfulness of homophobia and to make individuals responsible for those harms.

Scholarly critiques

Critical legal theories, like legal rights, are anchored by normative questions of accountability. While legal rights emphasise accountability as a normative outcome of legal protections, critical legal scholarship seek to disrupt normative attachments to individual rights because individual rights fail to address structural realities of subordination (Coleman, 2024; Kennedy, 2002; Moyn, 2024). As Samuel Moyn (2024: 4) argues, "critical legal studies was the first radical legal theory that placed the conceptualization of domination and the imperative of its unmaking centerstage." We can observe through Moyn's framing here how the "conceptualisation" of social, legal, economic, and political oppression and the "unmaking" of oppressive social, legal, economic, and political conditions are accountability measures that critical legal scholars use to evaluate the methodological utility of their scholarly endeavours (as opposed to the normative importance of legal rights discussed above). In other words, critical legal theory establishes the terms of its accountability by the extent to which it successfully unmasks domination (exposure, acknowledgment) and offers conceptual tools to dismantle the conditions of that domination (remediation).

This is apparent in critical feminist, race, and queer legal theories.[5] Critical feminist scholars have drawn attention to how adjudications of responsibility in law (such as in rape trials that seek to resolve questions of consent, trauma, and desire) rely on patriarchal standards that privilege men's entitlements to women's bodies and entrench misogyny by objectifying women in this process (MacKinnon, 1989; MacKinnon and Crenshaw, 2019; Nussbaum, 2004). Writing about US constitutional law, Catharine MacKinnon and Kimberlé Crenshaw (2019: 344) describe how "white supremacy and male dominance, separately and together, were hardwired into a proslavery and tacitly gender-exclusive Constitution from the beginning." They offer a speculative constitutional amendment attentive to the "intersectional" realities of racism and sexism as a remedy to the existing inequality-inducing constitutional architecture (MacKinnon and Crenshaw, 2019: 363-364). Critical race and feminist theories like those inspired by MacKinnon and Crenshaw have detailed how legal norms fail to account for the emotionally material effects of racialisation and sexualisation (such as the trauma of state policing, fear of incarceration, hunger associated with poverty, and anxiety from domestic violence). They acknowledge how gendered racism functions in law by making Black, Indigenous, and other racialised people (especially cis women and trans people) vulnerable to fear, trauma, and anxiety in both private (homes) and public spaces (prisons, schools, workplaces) (Crenshaw, 1989; Davis, 2015; Gilmore, 2022; Williams, 1988). These critical scholars might be hesitant about law, but they do not disavow it entirely, as they moot the hopeful potential of greater legal accountability by outlining reforms that might ameliorate such negative emotions (trauma, fear, shame, disgust) experienced by minoritised individuals and communities. This is evidenced in critical legal scholarship that outlines reforms to legal tests that underpin discrimination claims, sexual violence complaints, humanitarian interventions, and parentage recognition (Cooper, 2004; Crenshaw, 1989; Fischel and Cossman, 2024; Jones, 2023). Queer legal scholars have responded with other hesitations about law, attending to how norms about heterosexuality, family, reproduction, and monogamy maintain legal systems that repudiate social, gender, and sexual expressions/relations that refuse to conform

to such homo/bi/transphobic norms (Cossman, 2021; Kapur, 2024; Raj, 2020; Romero, 2009). As Ratna Kapur (2024: 73) argues, queer legal approaches are important to understand "law's flattened, unidimensional portrayal of the world of desirable queer life as limited to the liberal episteme." These approaches converge to demonstrate a shared scholarly concern about alleviating the structural subordination of LGBTQ + people while also holding space for scholars to think with (and not merely against) law to explore how law might be used to address persisting forms of subordination.

Political reforms

Bringing together personal rights and critical legal methodologies enables us to think about the political register of pro-LGBTQ + accountability that invests in legal reform. *R v Green* is an instructive case as the emotional controversies it generated were political struggles over the possibilities of legal accountability for homophobia. LGBTQ + individuals, lawyers, and scholars who opposed the homophobic reasoning of the High Court in *R v Green* sought to materialise the pain, shame, and anger of LGBTQ + people whose intimacies were denied affirmation by such a judgment (Raj, 2025: 46; Tomsen, 2006: 401). These individual activist and scholarly undertakings extend Brown's critique of liberal politics discussed above and function as a reckoning for legal institutions, exposing their complicity with homophobic violence and forcing them to subsequently acknowledge the error of their earlier legal assumptions (Howe, 1997; Mison, 1992; Moran, 2004).

This acknowledgment shaped the terms of political action for reform, with statutory change to exclude "non-violent sexual advance" as a basis for provocation (*Crimes Act, 1900*: section 23(3) (a)). The affective nature of reform meant the institutional disgust, shame, and hostility law once directed towards gay men (made possible by the historic doctrinal underpinnings of provocation) could now be refracted towards homophobes who perpetrated lethal violence (by removing a legal excuse on which they were once able to rely). Individual accountability (of the violent homophobe) takes centre stage while the institution can absolve itself of homophobia through its repudiation of individual homophobes (Raj, 2020: 64). However, this emotional formulation only occludes our capacities to expose how carceral and state logics engage in homo/bi/transphobic forms of governance (Cossman, 2021: 161; Stanley, 2021: 9; Tomsen, 2006: 403). An ambivalence is apparent here: a political desire for accountability alongside public contempt for Green's visceral homophobia presents carceral governance as a viable solution to hold him responsible for his lethal act but a political concern about erasing the social normalisation of homophobia make it difficult to embrace greater carcerality.

By following different articulations of accountability, and their emotional underpinnings, we can begin to grapple critically with how the scope for LGBTQ+ justice is mutually constituted, and contested, across personal, scholarly, and political registers.

Crafting affective autoethnographies

Invoking "queer" as a self-description of sexual identity or a critical theoretical methodology for undertaking research or a political project for social transformation is to expose oneself to public allegations of being a "groomer" or an "ideologue" (Raj, 2023). Crudely speaking, I found myself bastardised by strangers who viewed my self-description as "queer" (as a person, as a scholar) as dangerous to young people. I start this section with a provocative claim because to live, theorise, and work under the sign of "queer" is to feel vulnerable, anxious, and exhausted because the sign consolidates projections from others who see such work as unscholarly at best or socially contaminating at worst. Yet, we might also feel joy, pleasure, solidarity, and hope through doing/being queer (Ferreira et al., 2025: 1; Fischel and Cossman, 2024: 1; Hemmings, 2012: 148). Whether we experience this work as fun, dangerous, and/or risky, accountability as a queer person, a queer scholar, and a queer lawyer/advocate is "sweaty" work. Sara Ahmed (2017: 13) notes the labour of queer feminist theorising when describing "a sweaty concept [as] one that comes out of a body that is not at home in the world." This is not to conflate knowledge work with other forms of sweat-inducing physical labour such as cleaning, digging, building, etc. Rather, I riff with Ahmed to attend to the ways creating, as well as documenting, queer life is an embodied exercise that can be stressful, challenging, and hardening. While there has been an expansion of queer studies within academic institutions and it is easier for some to be "out" as queer at work, queer work is still risky (Brim, 2020; Raj, 2023).

When I started this paper, I described my ambivalence about legal bans relating to "conversion therapy." My ambivalence was not because I believed such practices were legitimate (I do not) but rather because I felt anxious about the institutional possibilities for ending homo/bi/transphobic harm if the focus of legal reform was on narrow statutory definitions and harsh criminal sanctions. As a queer person, I feel pained by the persistence of practices that seek to change or supress LGBTQ+ existence and ashamed of the political failure to take this seriously. As a queer scholar inspired by scholars like Ahmed and Brown, I remain critical of legal or political desires to remedy homo/bi/transphobia, when such desires result in absolving institutions of their guilt or shame (for enabling) homophobia by incarcerating a few individual homophobes who meet a certain threshold. As a queer lawyer/advocate, I hope to challenge the scope of current bans on conversion practices not to abandon law but to engage creatively with it to imagine alternative legal/political reforms. In each of these personal, scholarly, and political registers engaging with conversion practices, I labour. I sweat. I tire. I feel these discomforts and conceive of them as conditions of queer legal accountability because they refuse to be comfortably resolved and neatly housed within existing parameters of law.

Extending Ahmed's idea of the "sweaty concept" by methodologically sketching out what it means to do queer legal work that holds space for the discomfort that comes with doing queer critical and normative work which attends to varied personal, scholarly, and political accountabilities. Several critical race, feminist, and queer scholars have written attentively about what it means to expose oneself in scholarship, especially noting how doing so involves identifying the material (racialised, gendered, sexualised, capitalist,

ableist) conditions of labour that structure knowledge production as well as making transparent how the normative and critical arguments made within that scholarship are politically and personally positioned (Brim, 2020; Collins, 2019; Lorde, 1984; Robson, 1998; Sedgwick, 2003; Snitow, 2015; Williams, 1991). These accountabilities also materialise in tension with one another, especially when brought to bear on legal work. For example, queer lawyers invested in doctrinal scholarship are mindful of how they need to be faithful to precedent (the idea that the law is what a higher court has determined it to be and should be followed until overruled) and wary of exposing their emotions out of fears that such disclosures would risk corrupting their analysis by making it messy, subjective, and biased (Abrams, 2015; Maroney, 2006).

Navigating these tensions of accountability require a turn to what I call "affective autoethnography." As a reflexive method associated with anthropology and cultural studies, autoethnography refers to a methodological process whereby an individual understands "the field" of their study or "the subject" of their inquiry by narrating their personal experience of it and critically reflecting on such encounters (Augé and Colleyn, 2006: 81-95; Bondi, 2005: 238-243; Gorman et al., 2010: 101; McRobbie, 1982: 45-47). Feminist auto/ethnographies, for example, involve connecting the embodied feelings of individuals (sexual fears, domestic disappointments, labour hopes, environmental joys, cultural belonging) to institutional conditions that generate such feelings (political misogyny, gendered divisions of labour, institutional racism) (Cetinkaya, 2025; Heyes, 2020; Snitow 2015; Springgay 2022; Waite, 2018). Writing about what a queer approach to autoethnography entails, Alison Rooke (2010: 35) notes that researchers should:

> [P]ay attention to the performativity of a self which is gendered, sex, sexualised, classed and generational in the research process. It demands that the ethnographer work from an honest sense of oneself that is open and reflexive, rather than holding onto a sense of self which provides an ontologically stable place from which to enter into the fieldworld.

What is important to emphasise here is how "openness" and "reflexivity" are not rational states that are cultivated through scholarly dispassion. Rather, they are affective methodological (pre)dispositions that are performatively produced by the emotions that emerge in research encounters with subjects of research. In critical legal research, when producing questions about legal rights, critiques, and reforms, "paying attention" queerly involves activists/scholars/lawyers acknowledging how they might feel (normatively) about their subject as well as navigating their (critical) capacity to remain open to surprise when dealing with that subject despite how they might feel about it. This approach is not about cultivating empathy, as if questions of material injustice could be understood, critiqued, and resolved by cultivating interpersonal feelings towards "the other" (Davis, 2023: 8). Instead, queer reflexivity and openness involve navigating how we (as activists, scholars, lawyers) are "turned toward" our subject (Ahmed, 2006: 27), undertaking a "selective scanning and amplification" (of pleasures, desires, anxieties) present in a subject (Sedgwick, 2003: 135), and noting how our subject "bobs and weaves" as we are emotionally (and analytically) scrutinising it/them (Berlant, 2012: 18).

Let me return to the "conversion therapy" vignette as an object lesson to explain reflexivity and openness in affective autoethnography. We do this by understanding the organisation of methodology in terms of its "referent, description, and critique" (Wiegman, 2012: 60). Through my analysis, I conceive of affective autoethnography as a way of exposing the emotional socio-legal conditions (referents) that stigmatise sexual difference and elicit our personal anger, shame, and pain (as individuals) towards such practices. We then account for (description) how our shame, pain, and rage (as scholars) shape the terms by which we approach research on conversion practices and critique the nature of proposed bans. We should also note how emotions like pain, shame, and anger are institutionalised (as politics) through lawmaking processes that seek to disavow homo/bi/transphobia as a social or legal artefact.

Writing queer judgments and exercising accountabilities

Affective autoethnography is a method that threads emotions materialising across personal, scholarly, and political registers. In this section, I outline how this emotionally critical approach might take shape through emotionally critical and normative forms of queer legal work (in this case legal judgment writing) for those tasked with resolving legal disputes and adjudicating others' accountabilities. The queer judicial work I outline here goes beyond merely encouraging judicial positionality statements that disclose one's emotions and social location, as if describing the emotions of a judge alone would be sufficient to dismantle the (homo/bi/transphobic) power dynamics or objectifications inherent in judgments (Gani and Khan, 2024: 7). Instead, I present queer judgment writing as a "counter-normative" legal pursuit that requires queer judges to expose our emotional dispositions while rethinking with care, solidarity, and imagination those lives, intimacies, pleasures, and bodies that are politically persecuted because of pernicious social moralities (Zanghellini, 2009: 13).

For jurists invested in norms of neutrality, it is scandalous or compromising to suggest that their legal work should involve exposing themselves or their emotions when adjudicating a decision. Writing about the "Feminist Judgments Project," Rosemary Hunter (2010: 30-31) observes how most theoretical accounts of judging stress "values of fairness, independence, impartiality, consistency and certainty" and note how disclosing a positionality (such as a feminist one) risks speculation about judicial unpredictability. Judging in common law traditions require those sitting on the bench to determine facts (that give rise to the conflict between parties) and apply relevant legal rules (taken from statute, case law, treaties) to those facts in order to arrive at a holding (which may take the form of a declaration, injunction, conviction, etc).

Judging, at a minimum, is a task of intellectual labour. As critical jurisprudence scholars have noted, adjudication functions as a "kind of work with a purpose" where an "interpretive attitude" is necessary to enable judges to resolve contested legal issues (Dworkin, 1986: 66; Kennedy, 1986: 526). Judges come into contact with parties, lawyers, statutes, precedents, and court architectures and these contacts shape the judicial parameters of how legal issues are resolved (delivered verbally, documented textually). As Ronald Dworkin (1986: 230) observes, judgment is not an unencumbered exercise but

declarations of legal responsibility – determining the "fit" between a particular set of facts and a set of established doctrines – is an interpretive exercise that relies on the "raw data" available to the court. As Duncan Kennedy (1986: 531) explains, making sense of how facts and doctrines fit together is to acknowledge how relationships between facts and doctrines might be unconsciously grasped, as relationships become available or visible to judges by virtue of their intuitions. Law is produced (not simply declared) through judgment. Judging therefore raises important questions of accountability, not just to those who turn to the courts to realise their rights, but also of legal institutions themselves and how they ultimately make (use of) legal knowledge (Adébísí, 2022: 7; Ahmed, 2019: 26).

To conceive of jurisprudential accountability given the performative, interpretive labour of judgment is to recognise that objective fidelity to judicial precedent is an insufficient explanation for the vagaries of judicial decision-making (Hunter et al., 2010: 5; White, 1985: 24). Rather, as I have argued elsewhere, emotions produce judicial discourses (Raj, 2020). By bringing queer, emotions, and judgment together in this final part of the paper, I seek to advance an affective autoethnography of critical judgment writing underpinned by critical feminist, race, and queer commitments, which are anchored by a politics of care for its subject (Hartman, 2019; Hunter, 2010; Nash, 2024). The affective autoethnography of queer judgment writing (as a specific type of legal work) is "caring" to the extent that it embraces, rather than turns away from, each of the personal, professional, and political accountabilities that are affectively produced when adjudicating issues relating to LGBTQ+ people.[6] Queer judging, as a praxis of affective autoethnography, is a way for judges to adhere to their personal and professional responsibilities to uphold legal principles or norms while critically reflecting on how those legal principles/norms and their application take a political shape within emotional expressions of judgment.

In thinking about why we should write a queer judgment, I am inspired by Eve Sedgwick (1993: 51) who describes her scholarly intervention (in the context of literary theory) as "an actively antihomophobic one, valuing and exploring and sharing a plurality of sexual habitation, love, and even crucial knowledge." What might be gained if we (re) imagine and (re)write judgments in ways that are actively pro-queer? How might we use emotions in queer judgment writing to hold space for our personal, critical, and political sensibilities as queers? And how might this rewriting/reimagination effect the interpretive attitude of legal scholars and lawyers in general? In posing these questions, I want to note that writing a queer judgment is not without its own constraints. As Alex Sharpe (2017: 422, 425) argues, queer judgment writing involves making room for "those located at the sexual and gender margins" and, noting the limits of legal recognition, "moves towards" a horizon of justice.

I return to *R v Green* to illustrate how queer adjudication might be possible without letting go of the different accountabilities at stake. This adjudication is an uncertain task because "queering" the personal, critical, and judicial accountabilities at stake pulls the judge in different directions. I do not reject such uncertainty as a feature of the queer judicial praxis I describe. By making room for uncertainty in *R v Green*, while issuing judgment, I think about how emotions expose individual and institutional acts of homophobic violence without privileging criminal punishment as the only means to sanction

homophobia. Writing a queer judgment of *R v Green* demonstrates how the queer judgment is an affective object to repudiate homophobic violence, a mode of anti-homophobic critique, and a space of ethico-political engagement that makes room for queer lives to flourish.[7]

R v Green was an appellate decision that related to technical questions about the scope of provocation. During Green's trial, the primary judge refused to allow a jury to hear evidence of how his father sexually abused his sisters and how this made Green particularly sensitive to sexual violation (Green, 1997: [341-342]). In order to make provocation an arguable point in criminal law (in NSW, Australia), a defendant had to establish that the deceased's conduct (Gillies' unwanted touch while Green lay in bed) constituted a serious enough incursion into their mental state by considering the particular social context of the defendant and then weighing the gravity of such conduct to determine if it could have led an ordinary person in the position of the defendant to lose control and form an intent to kill (*R v Green*, 1997: [346]). Provocation is available only in relation murder, as it reduces the crime to manslaughter if successfully pleaded. As I noted in the first part of the paper, emotion (in this case the strength of disgust) is central to the success or failure of provocation. A queer judgment that seeks to make sense of how provocation is an emotional legal test must first acknowledge how disgust features in the case for both the defendant and judge hearing the matter. A queer judge would not eschew the disgust palpable in Green's homophobic rebuke of Gillies' sexual flirtation. By recognising the ways in which Green's lethal rebuke of Gillies was an expression of individual disgust, a queer judge would then go on to consider how judges who feel similarly about homosexuality might enact their own disgust as they determine whether Gillies' advance was an unwanted flirtation or a violent intrusion by a sexual "aggressor" (*R v Green*, 1997: [346]; Raj, 2025: 47). This affective exposure – effected through judicial reflexivity about the act of adjudicating queer intimacy – makes visible Green's homophobia (individual accountability) as well as the homophobia of the legal system (institutional accountability).

Judicial reflexivity about the nature of Green's disgust in relation to his personal position (as required by the test of provocation) brings to the fore the cultural pervasiveness of homophobia. A queer judgment involves describing not only why Green was homophobic but also critiquing the legal terms by which that homophobia is made excusable. A dissenting opinion made by an openly gay judge, Justice Michael Kirby, in the original case noted that the "ordinary person" is "not so homophobic" as to react with "irrational hatred and fear" (*R v Green*, 1997: [408-409]). While this dissent makes note of fear and hatred to repudiate it, and hold Green accountable, it does so by resentfully (to adapt from Brown's notion of ressentiment) figuring the homophobic perpetrator as aberrant to the social order without critically engaging with the institutionalised nature of homophobia. For Justice Kirby, this was a necessary move to avoid justifying homophobic disgust or hatred through the legitimisation of a provocation defence. A queer judgment would take the anti-homophobic sentiment animating Justice Kirby's original dissent in *R v Green* and acknowledge the disgusting nature of Green's violence towards Gillies while also critiquing how homophobic disgust (as well as hatred or fear) saturates Green's personal beliefs. However, it would go further by noting how a legal system countenances and cultivates such

disgust by shielding (or at least partially excusing) violent men who kill because of bigotry (Howe, 1997; Mison, 1992; Raj, 2025). This mode of critique is made possible by exposing disgust and navigating its dispersals across individual (Green's homophobia), interpersonal (Green's killing of Gillies, Green's pleas to the Court), and institutional (the majority's in *R v Green* concessions about provocation) vectors.

Queer judging based on affective autoethnography enables a judge to thread the personal and critical accountabilities at stake in *R v Green*. This also leads to navigating the political accountabilities of rendering a judgment consistent with the constraints of statute or precedent. In determining the gravity of Green's disgust at the purported sexual violation he encountered, a queer judgment would seek to parse how patriarchal sexual abuse of his sisters could be seen as materially relevant to Green's sensitivity to how violated he felt when a friend made an unwanted sexual advance towards him. In thinking affectively about how the judicial majority in *Green* tether the trauma of persistent patriarchal sexual abuse (of Green's sisters) to the trauma of feeling "violated" by unwanted homosexual intimacy, a queer judge would take care to avoid conflating the two. By doing so, a queer judge would make room to recognise judicial homophobia and refuse to countenance it as a basis for exculpating Green. A queer judge need not eclipse the institutional realities of homophobia and the problems associated with using criminal sanctions as a means of effecting social justice (Davis, 2015; Gilmore, 2022; Olufemi, 2020; Sharpe, 2017). Fidelity to statute (the *Crimes Act, 1900*) need not be compromised by confronting disgust and socialised homophobia critically through the process of judgment. This affective judicial work enables a queer judge to hold Green responsible for murder as well as pointing out the insufficiency of criminal law to address the homophobic norms that give rise to lethal violence. Using emotion to take seriously the personal, critical, and political stakes is crucial for an anti-homophobic form of judging.

Conclusion

Queer legal work, as expressed through queer judgment writing and the analysis I have developed in this paper, is a dissatisfying exercise that involves navigating the tensions and contradictions that emerge when bringing "queer" and "judgment" together in socio-legal discussions about accountability. This work is emotional. Accounting for this fraught exercise by paying close attention to how emotions function in law (such as legal activism, critique, judgment) exposes the different accountabilities at stake when seeking to "do justice" to the lives of queer, trans, and other minoritised people. In "Who do you think you are?", Jacqueline Rose (2016) writes about the relationship between gender, authority, and identity, and asks, "What is left of these complex lives which, in failing fully to be told, fail to be fully honoured?" Responding indirectly to Rose's provocation, queer judgment writing proceeds as an imaginative exercise that seeks to account for queer life as it exists in ambivalent and complicated ways and accounting for queer lives involves articulating queer forms of judgment that are attentive to ambivalence and complexity without countenancing homo/bi/transphobic logics or obfuscating state violence perpetrated against queer populations.

The form of queer legal work I have embodied in this paper enables us to queer jurisprudential accountability, which is neither abstract nor universal. This accountability is elastically and ambivalently articulated through different emotions that emerge in contexts of working towards queer justice across personal, scholarly, and political terrains. Amia Srinivasan (2021: xviii) reminds us that, in the context of feminist engagements with politics, we need to engage with theory that "discloses the possibilities of women's lives that are latent in women's struggles, drawing these possibilities closer." The affective autoethnography as queer legal work that I have embodied in this paper is an attempt to disclose, discuss, and draw in possibilities of queer thinking through judgment writing that attends to emotional personal, scholarly, and political demands for justice. This is an important exercise in queering accountability because it involves making oneself (as well as queer theory and law) responsible to the task of both "valuing and exploring and sharing a plurality of sexual habitation, love, and even crucial knowledge" (Sedgwick 1993: 51) and exploring alternatives (in law) for a "just, sustainable, and habitable future" (Brown 2015: 222). This method is not about romanticising either law or accountability in a utopic vision for justice nor is it about reifying my role as a queer person, queer scholar, and (hypothetical) queer judge. Rather, I have tried to show how queer legal work might, even with the constant risk of failure because of the caricaturing features of law and norm resistant underpinnings of queer, open new conceptual spaces for us (as individuals, activists, researchers, lawyers, judges) to pursue varied aspirations for solidarity, belonging, justice, and community. We can do this queer legal work in various contexts, such as in courtrooms, while critically engaging with interpersonal and state logics of anti-queer violence, inequality, carcerality, and stigma.

Writing this paper has been an emotional and exposing task. Writing it has involved sweating my way through a range of emotional entanglements about justice. I have sought to feel my way through these entanglements by grappling with some emotional questions of accountability in relation to LGBTQ + rights, which materialise across personal, scholarly, and political registers. As a queer person, queer scholar, and queer advocate, navigating these accountabilities as well as the tensions they generate is only possible if we understand the emotional terms of their articulation and how they relate to each other. This paper has foregrounded reflexive, affective dimensions of accountability through a personal queer reflection (as a queer person seeking justice), a critical queer methodology (as a queer scholar critiquing cis/heteronormative forms of legal and interpersonal violence), and a normative politico-legal method (as a queer judge holding individuals and institutions to account for homophobia).

I began this paper by exploring the personal rights, scholarly critiques, and political reforms that structure the terms by which we approach questions of LGBTQ+ rights alongside the reparative conditions needed to end homo/bi/transphobic violence, discrimination, and inequality. I used an Australian case relating to homophobic violence, *R v Green* (1997), to attend to how emotions (like disgust) materialise the terms of personal, scholarly, and political accountability – through exposure, acknowledgment, and remediation – as they relate to queer critical legal work.

I then outlined a praxis of "affective autoethnography" as a critical methodology rooted in holding space for personal, critical, and political accountabilities. Drawing

together critical feminist, race, and queer work with law, I was able to sketch how queer legal work might embrace emotional reflexivity and humility as part of its methodological frontiers. I detailed how this might affectively take shape through the exercise of writing a queer judgment. Specifically, re-imagining *R v Green* through affective autoethnography exemplified what a queer judgment might look like as an affective object, mode of critique, and space for ethico-political engagement.

Doing queer legal work is essential. As anti-queer, anti-trans hostilities escalate globally with authoritarian politics, holding onto queer (as an identity, a critical praxis, a form of rights-seeking advocacy) feels increasingly difficult. Queer legal work that takes emotion seriously as a methodological endeavour rooted in plural accountabilities – as evidenced by queer judgment writing – is a critical resource of hope in the face of constraining fascist environments. We (as individuals, scholars, lawyers, activists, judges) need to keep working, sweating, thinking, imagining, and feeling together if we are to conceptualise and pursue worlds where accountability for securing LGBTQ + lives and flourishing matters.

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ORCID iD

Senthorun Raj https://orcid.org/0000-0001-6972-9252

Notes

1. I deal with this comprehensively elsewhere (see Raj, 2020).
2. There is extensive work in Law and Literature on the contingencies of law and its (in)ability to speak to any singular subject with authenticity given its abstracting and extractive logics. See, for example, Coombe (1998); Cornell (1990).
3. The use of "LGBTQ+" is an imprecise and contested umbrella term for disparate groups (see Raj and Dunne, 2020).
4. Provocation is a defence to murder. While variations exist between jurisdictions, broadly speaking, it is a criminal defence that is designed as an excuse for human frailty (emotions like

anger, disgust, fear) and partially excuses lethal conduct where an accused was sufficiently provoked by the deceased. For detailed discussion of how provocation functions in this case as the "homosexual advance defence," see Howe (1997); Raj (2020): 34-41.

5. It is beyond the scope of this paper to detail the rich ways accountability is theorised in critical legal scholarship. I discuss these critical legal terrains elsewhere, see Raj (2020); Raj (2023).
6. For an example of critical judgment writing as "queer therapeutic autoethnography," see Kirichenko (2025): 83-101.
7. I have published my (dissatisfying) version of a queer judgment on *Green*, see Raj (2025): 49-59. In this paper, I reflect on the methodological processes, norms, and challenges of writing such a judgment.

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Dr Senthorun Raj is a Reader in Human Rights Law at Manchester Law School, Manchester Metropolitan University.