

# Social & Legal Studies

<http://sls.sagepub.com/>

---

## **Subversive Property: Reshaping Malleable Spaces of Belonging**

Sarah Keenan

*Social & Legal Studies* 2010 19: 423

DOI: 10.1177/0964663910372175

The online version of this article can be found at:

<http://sls.sagepub.com/content/19/4/423>

---

Published by:



<http://www.sagepublications.com>

**Additional services and information for *Social & Legal Studies* can be found at:**

**Email Alerts:** <http://sls.sagepub.com/cgi/alerts>

**Subscriptions:** <http://sls.sagepub.com/subscriptions>

**Reprints:** <http://www.sagepub.com/journalsReprints.nav>

**Permissions:** <http://www.sagepub.com/journalsPermissions.nav>

**Citations:** <http://sls.sagepub.com/content/19/4/423.refs.html>

---

# Subversive Property: Reshaping Malleable Spaces of Belonging

Social & Legal Studies  
19(4) 423–439

© The Author(s) 2010  
Reprints and permission:  
[sagepub.co.uk/journalsPermissions.nav](http://sagepub.co.uk/journalsPermissions.nav)  
DOI: 10.1177/0964663910372175  
[sls.sagepub.com](http://sls.sagepub.com)



**Sarah Keenan**

*University of Kent, UK*

## Abstract

Despite a wide field of scholarship critiquing the idea and workings of property, most understandings still centre on the propertied subject. This article spatializes property in order to shift the focus away from the propertied subject and onto the broader networks of relations that interact to form property. It draws on critical geography, phenomenology and empirical socio-legal work to argue that property can be understood as a relationship of belonging that is held up by the surrounding space – a relationship that is not fixed or essential but temporally and spatially contingent. Building on Davina Cooper's analysis of 'property practices', I argue that when analysed spatially, the two types of belonging she discusses – belonging between a subject and an object and between a part and a whole – become indistinguishable. As such, characteristics generally associated with identity politics can be understood as property in the same way that owning an object can – in terms of belonging in space. This spatialized understanding shows the breadth of property's political potential. Although property tends to be (re)productive of the status quo, it can also be subversive. Property can unsettle spaces too.

## Keywords

belonging, place, property, space, subversion, unsettling, whiteness

This article spatializes property in order to put forward an alternative political agenda for it. The article shifts away from the focus on the 'proper(tied) subject' and her right to exclude and instead constructs a theory of property that focuses on belonging in space. Space is understood as something constantly unfolding and open to change; not the dead inert matter over which time happens or an already completed story to which an essential meaning can be attached, but rather, as Doreen Massey puts it, the simultaneity of stories so far (Massey, 2006). Drawing on this perspective, I argue that property is a relationship of belonging that is held up by the surrounding space – a relationship that is not fixed or essential but temporally and spatially contingent. Property happens when a space holds

up a relationship of belonging, whether that relationship is between a subject and an object or between a part and a whole. This spatialized understanding of property means that being white, hetero/homosexual or other such social characteristic generally associated with identity politics can be understood as having property in the same way as owning a mobile phone can. This understanding of property fits with anti-essentialist understandings of identity and with a critical geography understanding of place as a process and space as dynamic and heterogeneous. But most significantly, it suggests the possibility of an alternative political agenda for property. For as property is spatially and temporally contingent, it is also malleable – so while property tends to be (re)productive of the status quo, it can also be subversive. Property can unsettle spaces too. Rather than questioning whether subversive property falls within law's parameters, this article examines both legal and extra-legal property on the same basis because both have real effects. It invites a rethinking of what property can do.

## The Propertied Subject and the Right to Exclude

The theorization of property as an essential part or extension of the subject has a long history in Western philosophy, most prominently in the work of Locke and Hegel. Locke famously argued that 'every Man has a Property in his own Person' which he could expand by mixing his labour with uncultivated or 'state of nature' land (Locke, 1978). Because this appropriation through labour was understood as a kind of natural, god-given right, no permission from others was required, so long as the appropriator left 'enough, and as good' for others (Locke, 1978). According to Locke's definition then, property is both an inherent, essential part of the subject (the body's labour) and a constructed extension of it (the land that is cultivated). That property, however, only exists in and for subjects who are able-bodied, Anglo-European, men of a particular class (Arneil, 2001) – Locke's 'every man' is embedded in class, gender, race and ability<sup>1</sup> assumptions about who can be a proper subject and the most famous legacy of his theory is as a significant justification for colonial expansion (Davies, 2007). As well as excluding certain socially and legally constructed categories of people, Locke's subject is also assumed to pre-exist any such categories – the Lockean subject always already has property in himself, he does not need to acquire it through any social or legal processes.

In contrast, Hegel's proper subject only achieves subjectivity through the process of appropriation – he is not born with property but must acquire it in the process of becoming fully human (Davies, 1994). Hegel argued that the subject begins as an abstract free will, which is purely individual and thus not yet in a relation with the external world (Hegel, 1991). The subject 'must translate his freedom into an external sphere' by putting his will into external objects and making them his own. His externalized will is then taken back into himself in the form of property – the subject recognizes that 'I, as free will, am an object to myself in what I possess' (Hegel, 1991). Property for Hegel is thus an essential part of the process of becoming a proper subject. Whereas Locke's proper subject enters the world already fully formed complete with property in his own labour, Hegel's subject only reaches a state of subjectivity by acquiring property and in turn having his property recognized by another subject. And whereas Locke sees the world as a place which began in the state of nature and was slowly cultivated into property by 'the

'civilized part of mankind', Hegel sees the world as a place in which property is a way for the individual to recognize and engage with that outside himself as a step towards an ethical totality (Davies, 2007; Harvey, 1981). Locke and Hegel have in common their definition of property as something that is an essential part of the proper subject and an assumption that neither women nor non-white races can be proper subjects.

Locke and Hegel's theories of property both remain heavily influential in understandings of property today, and are still used by a range of political campaigns to make arguments about what should count as property. Squatters' arguments that unused buildings should be given to those who use them as homes have strong resonances with Locke's justificatory theories of appropriation of unused land (Blomley, 2004), and assertions of self-ownership have been used by feminist activists in campaigns against the criminalization of abortion (Davies and Naffine, 2001). Margaret Radin draws on Hegel's theory of the subject formed through property to argue that certain property is market-inalienable because it is essential to human flourishing or personhood (Radin, 1987, 1993). Radin distinguishes market-inalienable property from fungible, commodifiable property which exists primarily for the goal of profit. Radin sees the home as essential for personhood and makes the argument that there should therefore be greater legal protection for tenants (Radin, 1993). In making this argument she draws on the Hegelian concept of property being necessary for personhood. While Radin's arguments are a powerful rejection of theories that promote universal commodification, her work has been critiqued due to its appeal to 'normality' to determine what constitutes property essential for human flourishing and what constitutes inessential, fungible property (Davies, 2007). This unquestioning appeal to an overarching normality means that Radin's theory tends to reinforce rather than challenge the power structures that cause people to unwillingly sell or lose what she would classify as property essential for human flourishing (Schnably, 1993). This is not to say that Radin's argument for greater legal protection for tenants, or the arguments for self-ownership in the context of abortion or utility in the context of squatting are not useful for achieving immediate political goals, but that they do reinforce both the centrality of the subject and the assumption that property is essential to it.

Debates over what counts as whose property continue to be prominent across a range of political contexts because property is widely understood and enforced as a particularly formidable right. Although many legal theorists have pointed out the social constructedness of property (Gray, 1991) – persuasively arguing that it comprises 'no more than socially constituted fact' (Gray, 2007) – most nonetheless still understand property as operating to give the subject something fixed, permanent and incapable of being interfered with by others. Although property might be an illusion, it is an illusion that gives the subject the power to exclude (MacPherson, 1978; Penner, 1997). This emphasis on exclusion is an important recognition of the social power of property. While Locke theorized property in terms of a person's relationship with a thing (land), modern property theorists have made a point of highlighting that 'dominium [private power] over things is also imperium [political power] over our fellow human beings' (Cohen, 1978).

By focussing on the right to exclude others, these legal theories of property make the important point that property is not just an extension of the subject but also a relationship between subjects.

Using this understanding of property as a right to exclude, Cheryl Harris makes the argument that whiteness is property. Writing in a United States context but drawing on histories and arguments applicable to other Anglo-European states, Harris outlines how property rights are rooted in racial domination to the extent that whiteness is a form of property (Harris, 1993). While slavery and conquest are no longer legal practices,<sup>2</sup> by essentially maintaining the status quo of a socio-economic system entrenched in racial inequality, the law continues to recognize what are now the settled expectations of whites that have been built on the benefits and privileges of white supremacy (Harris, 1993). Harris sees whiteness as a property right which is exercised whenever a white person takes advantage of the privileges accorded to white people simply by virtue of their whiteness. These vast and complex range of privileges, which might include feeling comfortable in a traditionally white institution or being more likely to be hired for an executive job, have the effect of entrenching the systemic exclusion of non-white subjects (Harris, 1993). Harris' argument defines property as both an element of the subject (one's race) and a relationship between subjects (whiteness gives tangible privileges over non-whites). It thus extends the socio-legal understanding of property as relational by showing that social characteristics as well as things can be property, though it does not challenge either the centrality of the property-owning subject or the idea that property's power lies primarily in that subject's right to exclude.

## **Property and Belonging, Properties and Belongings**

An approach that departs more radically from the propertied subject and the right to exclude is one that inverts the focus on exclusion and instead frames property in terms of belonging. Theorizing property in terms of belonging rather than exclusion shifts the focus away from the subject and onto the broader spaces, relations and networks that constitute property. Davina Cooper studied the property regime at Summerhill School, an alternative school where children choose whether or not to attend class and where rule-making and dispute resolution involve the school body as a whole (both teachers and children) (Cooper, 2007). Cooper describes property practices at Summerhill as involving five intersecting dimensions, of which belonging is the most important. Belonging is considered in two ways – firstly the relationship whereby an object, space, or rights over it belong to a subject ('subject-object'), and secondly the constitutive relationship of part to whole whereby attributes, qualities or characteristics belong to a thing or a subject ('part-whole'). Both understandings of belonging implicate social relations and networks that extend beyond the immediate subject and object of property – property is instead understood as a set of networked relations in which the subject is embedded (Cooper, 2007). In order to constitute property, that set of networked relations must not only include one of belonging between either subject and object or part and whole, but must also be structured in such a way that that relation is recognized and respected, or 'held up' by the surrounding space. This understanding of property thus focuses not on the subject but on the space around the subject – on the various constitutive relations and the ways in which they are structured to form networks of belonging that make property.

Property can thus be defined as a relationship of belonging held up by the surrounding space. Applying this definition to relationships of part-whole belonging resonates with

Harris' analysis of whiteness as property. Using the analysis of part-whole belonging, whiteness can be seen as property because the property-holder is embedded in certain social relations and networks of belonging. A white person can enjoy particular privileges because he or she belongs to the various social relations and networks that constitute whiteness. As writers such as Ruth Frankenberg have shown, those relations and networks are complex – whiteness, like all racial categories, is socially constructed through historically specific fusions of political, economic and other forces; and whiteness in turn 'constructs daily practices and worldviews in complex relations with material life' (Frankenberg, 1993). So while whiteness can be said to belong to the white subject, the white subject also belongs to the complex relations and networks that form whiteness. If the normative goal is to challenge the way whiteness operates to oppress and exploit other races, then it is those relations and networks which must be undermined rather than the individual subjects who belong to them.

While this analysis of whiteness as property in terms of belonging to a network could also be framed in terms of belonging to a social group, using the framework of networks acknowledges the many heterogeneous, intersecting factors that at a particular moment in time constitute a social group, and the importance of the ways in which those factors connect with each other and with the world outside. I am using the term network simply to mean an arrangement of intersecting forces or things in space. A subject's embedded position within a network of belonging can be used to describe a situation in which a person has property in her whiteness as well as a situation in which she has property in her home or her bicycle. This framework thus assists in exploring the question of when a property becomes property/when belonging becomes a belonging. The understanding of property as part-whole belonging offers the potential for thinking about the materiality of social relations – how possessing a particular social characteristic (such as whiteness) not only affects the subject's interactions with other subjects but also the subject's interactions with the material space around her. While it seems obvious that subject-object belonging affects a subject's interaction with material space, the effect that part-whole belonging has on a subject's interaction with material space is less obvious. Cooper argues that the two types of belonging 'overlap, combine and reform' and thereby 'provide the context, limits and conditions of each other's existence' (Cooper, 2007). It will be argued below that when analysed from a spatial perspective these two types of belonging-as-property become indistinguishable.

## Law as a Network of Belonging

Understanding property as a relationship of belonging held up by the surrounding space is a departure from understanding property as defined by law<sup>3</sup> alone. Cooper's study shows that property at Summerhill is defined not just by state law but by a range of social norms, rules and relations. Law is not the only network of belonging that is capable of producing property. Nick Blomley makes a similar point in his empirical study of people's understandings of property in a neighbourhood in Canada, where he shows that while law remains obsessed with delineating between public and private property, in some instances people think of property as neither private nor public, but as an amalgam of both (Blomley, 2005). In Blomley's study, residents had different and ambiguous

reactions to flowers being planted in bathtubs on a boulevard in their neighborhood by a group of resident artists. Some viewed the bathtubs as private encroachments on public space, others saw them as a public good, and others saw them as both an encroachment and a public good at the same time (Blomley, 2005). Blomley drew from this research to argue that people live in ‘complicated and overlapping worlds when it comes to supposedly determinate categories such as property’, with those worlds being defined by various networks of social rules and relations, including but not limited to law. People’s experiences of property are far more heterogeneous, complicated and slippery than an analysis based on property law would suggest.

Thinking about property as a relationship of belonging capable of being formed through law as well as through other social, cultural and/or political networks helps emphasize the social and cultural specificity of conventional understandings of property enforced through law. Framed in terms of belonging, Locke’s theory of property is a justificatory argument for what belongs to who – Locke argues that a man’s labour and the (‘unused’) land with which he mixes his labour both belong to him. This theory thus espouses a framework of belonging based on the self-owning proper subject and his earned property.

Although Locke’s theory claims to be universal, the networks of belonging in which his appropriating subject is situated are particular – one must first belong to networks of whiteness, class, ability and masculinity, and then also to a society that accepts Locke’s idea that the world is one universal state of nature that belongs to the men who cultivate it. As colonization spread British law and culture across the empire, so property spread on a Lockean basis throughout those areas, all but wiping out indigenous networks of belonging. Thus law did not recognize either the land or the labour of indigenous people as belonging to them, for they were not recognized as self-owning proper subjects. At the same time, indigenous people (who, at least in the Australian example, have an entirely different understanding of property [Rigsby, 1999]) did not recognize the colonizers’ claim to have property in the land merely because they had forcefully taken control and begun their own kind of agriculture on it. Thus different networks of belonging and contradictory understandings of property existed within the same space, the Lockean understanding being violently enforced through law.

This particular disparity in networks of belonging and understandings of property continues in postcolonial states today. As the legal system is the root of settler land title, law tends overwhelmingly to protect non-indigenous property. The dominant, legally sanctioned networks of belonging in relation to land in Australia revolve around the proper subject discussed earlier, and even arguments for law reform tend to reassert that culturally specific paradigm of the proper subject. Valerie Kerruish and Jeannine Purdy explain how the *Mabo v Queensland* (No 2) (1992) 175 CLR 1 decision which partially rejected the doctrine of *terra nullius* in Australia, made a legal identity of ‘native title holder/claimant’ available for indigenous people *within* Anglo-Australian law, thereby re-asserting the dominance of the Anglo-Australian paradigm and recognizing indigenous networks of belonging only as historical fact (Kerruish and Purdy, 1998). The native title doctrine is thus premised on the assumption that indigenous entitlement to land is a remnant of the past to be interpreted and judged by Anglo-Australian courts, rather than an ongoing reality to be determined by indigenous rules and customs. Radin’s argument that law should protect networks of belonging that ‘social consensus’ defines as essential

to personhood is an example of how arguments for law reform can have the effect of reasserting dominant networks of belonging and understandings of property (Radin, 1993). Social consensus tends to support the dominant networks of belonging, thereby preserving the status quo and any injustices that are part of that. So to apply Radin's arguments to the example of land in Australia, her arguments advocate the increased legal protection of people's homes (Radin, 1986) – meaning that all Australians, indigenous and non-indigenous, should have a home that they can safely assert belongs to them. But while this position would protect the immediate housing needs of those for whom such a need is pressing (homeless Australians, indigenous and non-indigenous), it relies on a culturally specific idea of what 'home' means (an enclosed, private physical dwelling), and it avoids the much larger issues of indigenous dispossession and the ongoing legacies of colonization. For many indigenous Australians, home and homelessness have an entirely different meaning – a meaning that gets drowned out amidst the calls to address the non-indigenous understanding of homelessness. As Aileen Moreton-Robinson argues,

[In the Australian context] the sense of belonging, home and place enjoyed by the non-indigenous subject – colonizer/migrant – is based on the dispossession of the original owners of the land and the denial of our rights ... It is a sense of belonging derived from ownership as understood within the logic of capital; and it mobilizes the legend of the pioneer, 'the battler', in its self-legitimization. Against this stands the indigenous sense of belonging, home and place in its incommensurable difference. (Moreton-Robinson, 2003)

While the tendency of law to uphold the dominant networks of belonging is particularly evident in a postcolonial context, it applies in any context in which there are competing networks of belonging.

## Property as Spatially Contingent

The networks of belonging that constitute property for particular subjects at particular moments are not spread out uniformly across time and space. When things or people belong somewhere (or according to one network of belonging), they are generally out of place somewhere else (or according to another such network). Take whiteness as an example. While whiteness can clearly be seen as a kind of property when a white person comfortably enters a meeting at a university whose history and administration are embedded in white hegemony, it is more difficult to make the argument that whiteness is property when a white person, less comfortably, walks into a local store in a poor black neighbourhood. This is not to assert that these two spaces are in any way equivalent, but simply to show that property here is not necessarily property there. Property is contingent on space. An understanding of property as produced through the interaction of complex networks of social, legal and other relations of belonging is an understanding of property as a particular moment in space. As the heterogeneous, hybrid and conflicting experiences of property found by both Cooper and Blomley and explored above in relation to disputes over whom the land belongs to in postcolonial Australia show, property is not fixed in time and space.

But while this understanding of property as spatially contingent can easily be understood in relation to whole–part belonging, whereby the object of property is a

characteristic or social attribute, it is somewhat more difficult to understand in relation to subject-object belonging, whereby the object of property is a thing or a space. While it might be easy to understand how whiteness is property in some places and not others, it seems less intuitive to argue that, for example, my mobile phone could be my property in one place but not in others. As explored above, property is a coveted political claim because it is generally recognized as fixed and permanent. But subject-object belonging is spatially contingent too. For the relationship of belonging between 'me' and 'my mobile phone' can only exist where networks of social relations have first constructed 'me', other networks of relations have constructed the phone, and yet other networks of relations have constructed the relationship between myself and the phone as one of belonging. Each of those networks of relations is in turn dependent on a whole range of interactions, processes and understandings that reach far beyond the networks themselves – they are not contained, complete or essential, but rather are constantly evolving. As such, the seemingly fixed products of those networks (such as identities, places or things) must be understood as contingent and incomplete processes rather than determined outcomes or fixed positions. Seemingly static entities are in fact part of a wider and constantly changing space. Thus in this example, both the seemingly fixed entities ('me' and 'my phone') and the relationship of belonging between them are in fact not fixed but dynamic and contingent.

So it is not so much that the mobile phone is mine, but that that particular phone and I are, at a particular moment, in a relationship of belonging recognizable as property because the various social, cultural, legal and other networks in which we are embedded recognize our relationship as such. Davies makes a similar point about the contingency of property in her discussion of queer property. Applying an anti-essentialist understanding of identity to ideas of property, she argues that 'if we accept that identity is at least partly an intersubjective, cultural construction and not simply a pre-social attribute then... there is a sense in which identity is never one's own, but a culturally determined aspect of one's person' (Davies, 1998). If I don't own my identity, but rather owe it to various social, cultural, economic and other networks that create my identity, then it follows that I owe the relationship of belonging I have with my phone to the various networks that construct that relationship as well. Property is thus understood not as something essential to or inseparable from the subject, but as a relationship that needs to be constantly reproduced by the space surrounding it. Carol Rose has similarly argued that property is a kind of persuasion – one that requires ongoing reiteration and that affects the subject as well as communicating a claim to the outside world (Rose, 1994). If it is accepted that the subject, the object and the recognizable relationship of belonging between them are each produced by dynamic, heterogeneous networks interacting simultaneously, then it follows that even traditional understandings of property as exclusive rights to an object are contingent on space. There are some spaces – such as cinemas, churches and classrooms – in which I will not be allowed to use the phone as I please, and there are some spaces where it might be taken from me altogether. My phone only belongs to me so long as I remain in a space that creates and recognizes my relationship of belonging with it. This spatial contingency also applies to public property, where the space recognizes that something belongs to a range of subjects; and intellectual property, where the space recognizes that an idea belongs to a particular subject.

Understanding property as spatially contingent suggests a different model of the subject from Lockean, Hegelian and other more conventional understandings of property. For the subject in this understanding is neither pre-social (like Locke's) nor dependent upon appropriation for its subjectivity (like Hegel's). Rather, the subject is constructed by (and thus dependent upon) a whole range of dynamic and heterogeneous forces. This is a subject that owes its identity to the space around it, including its identity as the subject of property. According to this understanding, 'the subject of property' is a state of being or an element of a subject's identity rather than anything fixed, essential or complete. So while I might be white or the owner of a mobile phone here and now, I might not be either of those in another time and place; and even in the here and now, neither of those is all that I am – my status as the subject of property is only a status, it is not the whole of my identity. Understanding property as spatially contingent also further illuminates the similarities between subject-object and part-whole belonging. From a spatial perspective, property as a characteristic (such as whiteness) and property as a thing or rights to a thing (such as a phone) are both relationships of belonging contingent on the surrounding space. While this understanding of property might be seen as similar to Hegel's or Radin's analyses in that it asserts that a thing external to the self can be thought of as a part of the self, the understanding of property as a relationship of belonging sees that relationship as constructed and contingent rather than essential. Understanding property as a constructed relationship of belonging challenges the distinction between property and person not because some property is so essential to personhood that it is part of the person (as Radin suggests), but because both property and the person are contingent on surrounding spaces.

## **Being Properly Oriented**

If it is accepted that property is spatially contingent and that both subject-object and part-whole belonging are contingent on space in the same way, the question remains as to how property happens. How or under what conditions does a property become property? Sara Ahmed's framework of orientations, which she defines as concerning 'the intimacy of bodies and their dwelling places', provides an innovative way to think about relationships of belonging (Ahmed, 2007). Ahmed argues that 'bodies are orientated when they are occupied in time and space' and that the way bodies are orientated affects which objects come near them and what they can do. Drawing on Frantz Fanon, Ahmed argues that 'doing things' depends not so much on intrinsic capacity, or even upon dispositions or habits, but on the ways in which the world is available as a space for action, a space where things 'have a certain place' or 'are in place' (Ahmed, 2007). In other words, the world is a space where things, including bodies, either belong or don't belong – a space that consists of networks that give rise to potential relationships of belonging. Ahmed argues that in a white world, white bodies are orientated such that they move easily and are held up by the spaces around them. Ahmed's analysis of whiteness as an orientation is similar to Harris' whiteness as property in that both see whiteness as allowing the white subject to do certain things that the non-white subject cannot. But whereas Harris focuses on the privileges of white subjects and the historical and contemporary legal forces that produce those privileges, Ahmed focuses on the processes in between – not only what white bodies can do and

why, but also *how* the spaces around white bodies allow them to do and reach things that other bodies cannot. This analysis resonates strongly with an understanding of property as a network of relations in which the subject is embedded – while the subject is embedded in that particular position within the network, or oriented in that particular way in space, she is recognized as belonging there, or as having property. Where she is and how she is oriented in space affects what she can do, which in turn affects who she is – so her position in a network or in space, whether or not she belongs, affects her identity (though it does not define it completely). A subject's status is not essential or fixed but can shift, as can her orientation. It might be argued then, that a subject has property while she is properly oriented in a particular space.

Ahmed's focus on bodies rather than subjects emphasizes the materiality of her analysis – the body is the material thing in which the subject exists and through which the subject interacts with the material world surrounding her. She argues that spaces become contoured by being repetitively oriented around some bodies more than others.

What is repeated is a very style of embodiment, a way of inhabiting space, which claims space by the accumulation of gestures of 'sinking' into that space. If whiteness allows bodies to move with comfort through space, and to inhabit the world as if it were home, then those bodies take up more space. (Ahmed, 2007)

This repetitive shaping of space so that it is oriented around white bodies is what allows the characteristic of whiteness to become property – a relation of belonging in which the white body belongs to the space oriented around it and holding it up. For when space is oriented around the white body, whiteness is experienced as something material – it is not just a characteristic of the subject, but a recognizable relationship of belonging with the surrounding space. The white body can be and can move comfortably in the space that is oriented towards her. This transition from whiteness as belonging to whiteness as a belonging, or from whiteness as a property to whiteness as property occurs when the space around the subject takes a similar shape to the networks that construct whiteness. Those networks, as discussed earlier, are complex and wide-ranging; they include but are not limited to law. To draw from an example used by Ahmed, when a white person walks into a university meeting, the space is already oriented around her. No one turns around and stares at her. She knows the language, the customs, the assumptions and various other material elements of whiteness, and she feels comfortable there. Many white people have walked into the meeting space before, so it has been shaped to accommodate white bodies (Ahmed, 2007). Thus while property is contingent on space, it also has a material effect on space – property is an ongoing interaction between subjects who belong (and who don't belong) and the space surrounding them.

## **The Temporality of Property: Shaping the Future and Producing Linear Time**

The shaping of spaces so that they are contoured towards particular objects and bodies is something property does over time. It is the repetition, the habit, the accumulation of gestures that shape the space such that it is oriented towards particular objects or bodies.

Duration is thus an important element of property. Reflecting on the discussion so far, I have variously claimed that ‘a subject has property *while* she is properly oriented in a particular space’, that ‘it is not so much that the phone is mine, but that the phone and I are, *at a particular moment*, in a relationship of belonging’, that ‘my phone only belongs to me *so long as* I remain in a space that creates and recognizes my relationship of belonging with it’ and that the seemingly fixed categories of subject and object and the relationship of belonging between them are in fact *dynamic* and contingent. If property is understood as protean – as a network of relations in which the subject is embedded but from which the subject can move, or as a proper orientation that can shift – then it makes sense that time matters to property. Time, as Elizabeth Grosz argues, is an extraordinarily complex term which connotes both a singular, unified and whole overarching time, as well as the numerous specific fragmented durations of each thing or movement (Grosz, 1999b). Grosz envisages time as a whole as ‘braided, intertwined, a unity of strands layered over each other’. The braiding of individual times into an overarching time is what makes possible relations that locate times and durations relative to each other (Grosz, 1999b). It is what gives time the capacity to link the past and the present to the future (Grosz, 1999a).

Individual instances of property each have their own time, but property as a concept also produces an overarching time. An instance of property, such as my relationship with my phone, has its own duration and also contributes to the production of an overarching temporality. Property happens when space accommodates the oriented subject, when that orientation is one where the subject is embedded in a network of relations of belonging. But while individual instances of property can have any duration, they tend to be long-lasting. Although it is possible to have property for a short time, relationships of belonging tend to extend over significant periods of time in relation to the lifespan of the subject and the object. Indeed a certain level of permanence is usually required for something or someone to belong – if the proper orientation or embedded position in the network is temporary then it is more likely to be a loan than property, because ultimately it belongs somewhere else.<sup>4</sup> The settled-ness and longevity of instances of property mean that the individual strands of ‘property time’ to be braided together are long and similarly aligned. The result is that property produces a strong linkage between past, present and future. Each occurrence of property is dependent upon the past – networks must have already turned and interacted in a particular way so that the subject becomes embedded in them. The phone had to already be put together, functional and for sale and I had to be in a position to buy it before it became mine. Ahmed argues that ‘what is reachable is determined precisely by orientations we have already taken’ (Ahmed, 2007) – subjects and objects do not randomly land in networks of belonging and become embedded there, but are funnelled into that position by the pre-existing shape of the world around.

But while property’s beginning is dependent on the past, once begun, property is oriented towards the future. Once a space is shaped around an object or body, it is more likely to remain there. And the better a space accommodates particular objects or bodies, the more it encourages similar objects and bodies to settle there in the future. The more that similar objects and bodies habitually settle in the same space, the more finely that space comes to be shaped to fit them. As time passes, the contours of the space become rigid, forming grooves that funnel similar objects and bodies in the same direction, and

unsettling and deflecting objects and bodies that do not fit. Networks of belonging thus become shaped such that some subjects are more likely to become embedded in them than others. This shaping of space over time in the mould of the objects or bodies that are already embedded in it means that property tends to shape the future in the same mould as the past.

The strong linkage that property provides between the past, the present and the future means that property tends to produce linear time, defined by Carol Greenhouse as ‘the image of time as an irreversible progression of moments, yielding ordinal conceptions of past, present and future as well as duration’ (Greenhouse, 1996). Property produces linear time by contouring space such that particular objects and bodies (or, objects and bodies coming from a particular trajectory) are likely to continue on in that position in the future. As the shape of the space becomes more rigid, so does the orientation of the objects and bodies that become embedded there. It is harder for them to turn away; their orientation, their direction becomes a predictable progression. Once I own my phone I make it my own, filling it with my friends’ contact details, choosing a ring-tone, putting it in a particular place when I am at home and another when I am out, I become comfortable using it – people come to recognize both the physical phone and the number attached to it as belonging to me. I adapt my life to having a mobile phone, changing the way I organize my time and my interpersonal relationships to the extent that I feel lost without it. Similarly, once an institutional space like a university meeting is established as white, it encourages more white people to feel comfortable there, to feel like they belong. Once accommodated in the meeting space, white people are then unlikely to reorient it so that it does not as readily accommodate them. Once an embedded relationship of belonging has been established, an intervention, something unexpected, is required to change it. Without such an intervention, a world organized around property relationships tends to continue forward with what Grosz describes as the ‘uniform, regular beat (that) generates an objective, measurable clock time’ (Grosz, 1999b). The homogenizing tendency of linear or clock time makes it fit with hegemonic agendas and with the maintenance of the status quo. The linear time produced by property thus tends to help the world retain its shape.

The shape of the world retained in part by property is one that is organized around relationships of belonging that, over time, can become so engraved in space that they appear to be inevitable or natural. Networks of belonging tend to outlast the lifespan of the subject – after the subject’s death or departure, the space that was carved out to accommodate her remains, waiting to be filled by another similarly shaped subject. Property, both in terms of whole–part and subject–object belonging, tend to be passed down within the nuclear family. Ahmed argues that ‘we inherit proximities (and hence orientations) as our point of entry into a familial space’ and that this inheritance generates ‘likeness’ – I am like my sister because I have been shaped in the same space as her, because our identities have touched and enveloped each other; but that ‘likeness’ is seen as sharing a characteristic (Ahmed, 2007). That is, the effects of property – having certain spaces orient around you and having certain objects within reach – in turn generates further property. This reproduction of property beyond the lifespan of individual subjects happens most obviously within families but also in broader social categories that are understood as sharing characteristics, or belonging in a particular place. ‘In the case of race’, Ahmed argues, ‘we would say that bodies come to be seen as “alike”, as for

instance “sharing whiteness” as a “characteristic”, as an effect of such proximities, where certain “things” are already “in place” (Ahmed, 2007). Ahmed also discusses the normalization of heterosexuality in terms of some bodies (those of the ‘opposite sex’) being seen as directed towards or made for each other – as belonging together (Ahmed, 2006). Like whiteness, heterosexuality is a property that often operates as property – spaces tend to be oriented around heterosexual bodies and to repel or unsettle queer ones. The same could be argued for masculinity, ability, class and other identity characteristics that are understood as natural or inevitable properties and towards which space is oriented. That is, those characteristics, and the identity groupings based upon them, are produced by networks of belonging, by inherited orientations that become fixed in space, defined by the past and reproductive of a future along the same trajectory.

## **Subversive Property – Unsettling Spaces and Reshaping the Future**

The two examples I have been using to illustrate the spatiality and temporality of property could both be described as instances of hegemonic property. The privileges associated with whiteness and with mobile phone ownership both operate as dominant social forces and are protected by or at least consistent with law. The argument that these kinds of property shape the future in the same mould as the past is not new – Marxist and race theorists have long argued that private property and white privilege respectively are reproductive of hegemonic power relations. What is different about this analysis is firstly that both subject-object and whole-part belonging are analysed as spatially contingent property and secondly that the spatial contingency of property means that it is malleable. The spatial and temporal contingency of property means that it can be reshaped.

Networks of belonging that enable property do not have to be oppressive, exploitative or conservative. The two empirical studies reviewed earlier demonstrate not only that property is experienced in complex and overlapping ways not solely determined by property law, but also that property can be productive of social goods in a way that subverts hegemonic power relations. This is a broader argument than one asserting that ‘public property’, meaning property owned by the state and ostensibly available for all to use, produces shared social goods. The property in these studies is not ‘public property’ – the school and the bathtubs are ‘privately’ owned – yet they are experienced as something in between public and private property by those who engage with them. At any rate, ‘public property’ tends to be more available and useful to some than others – women and transgendered people are less likely to be able to comfortably walk through a public park at night; those from non-English-speaking backgrounds are less likely to find books they need at the local library; indigenous people are less likely to enjoy the public holiday held to commemorate the founding of the colonial state. The property examined in Cooper’s and Blomley’s studies is not proclaimed to be of universal availability or use.

As Cooper shows in her work on Summerhill, property practices can play a productive role in contributing to community life (Cooper, 2007). So, for example, the school’s collective, democratic response to property breaches and the reassertion of rights that happens in that process (re)produce a sense of collective identity (Cooper, 2007). Blomley’s examination of the overlapping private and public property understandings and practices

in regards to the flowers in the boulevard bathtubs also shows that this extra-legal property can contribute to a shared public good, in that case a mainly aesthetic one (Blomley, 2005). In both examples there is a merging of property as a subject's rights over an object (subject-object belonging) and property as a part of the subject's identity (whole-part belonging), with both types of belonging, or what could be seen as the merging of the two, having a material effect on the surrounding space. At Summerhill, students' and teachers' rights over things (subject-object belonging) are tempered by the rules of community membership (whole-part belonging), and the interaction of these belongings produces the unique space of the school – both its material layout (staffrooms that allow student access, private bedrooms that tend to be widely shared, students' things such as clothes and tools arranged in such a way that they are not permanently given away) and its non-hierarchical, non-moralistic sense of community (Cooper, 2007). In Strathcona, residents' perception of their rights over the bathtubs (subject-object belonging) were in part determined by their perception of their community membership (whole-part belonging) – some would not pick flowers from the tub because it would be taking from the wider collective of their neighbourhood (Blomley, 2005).

While neither of these examples involved networks of belonging that explicitly contravened state property laws, both involved networks of belonging that were extra-legal – they were not defined by state law but by individual and community practices and understandings. They also both exist in a state of tension with the law – Summerhill was threatened with closure by the British Department for Education in 2000, and the flowers in the bathtub probably breach Vancouver's Encroachment By-laws. The property practices at Summerhill and in the Strathcona neighbourhood both involve objects and bodies positioned in ways that are out of place according to conventional understandings of belonging (flowers in bathtubs on the pavement, children alongside teachers in managerial meetings) and the legal manifestations of those understandings (encroachment by-laws, standardized educational requirements). The alternative property practices in both examples have an effect on both the subjects' identities and the surrounding physical space – differently shaped spaces are carved out. The result is a space that is unsettled in terms of its position within hegemonic understandings of property that are enshrined in law and that tend to dominate space.

While Summerhill school and the Strathcona neighbourhood are small-scale examples, the potential to unsettle spaces through extra-legal property practices has much broader political significance. Because space is dynamic and heterogeneous, and property is a spatially contingent occurrence, all spaces are unsettled to some degree – there will always exist networks of belonging that sit in tension with the dominant one. Some spaces seem more unsettled than others – land in postcolonial settler states being a clear example. Nick Blomley and Irene Watson have both explicitly written of such land as 'unsettled spaces'. Blomley argues that one of the reasons settler Canada relies on a system of land title – whereby property is vested exclusively in a particular subject or subjects – is that it gives an assurance that the claim to property is uncontested, that 'ownership is complete and zero-sum', that only the owner and the land are recognized as being in a relationship of belonging (Blomley, 2004). Alain Pottage has also shown how systems of registration of land title impose a linear or rational perspective upon the landscape, making land 'a calculable and finite surface rather than a lived and

remembered medium' (Pottage, 1994). Legal geography literature also shows how law tends to treat space as a pre-existing, a-social reality – a blank, neutral canvass upon and over which social relations take place, rather than something that is itself socially constituted and constitutive (Blomley, 1994). As has been discussed above, land is not a calculable and finite surface, but an ever-evolving medium, and one that involves multiple processes and relations that extend far beyond the land itself.

The lived and remembered aspects of land are particularly important to indigenous people, whose networks of belonging to the land are not recognized by law or by the dominant settler culture. The process of white settlement upon land that was once occupied by indigenous people is an ongoing one. Indigenous claims to property in land have never ceased, despite the state system of title that rejects them, and despite other state measures for silencing indigenous dissent to the hegemonic property system (measures such as incarceration and surveillance). Indigenous voices continue to assert an ontological relation to land – that country is constitutive of their being and that their relationship with land is thus inalienable, asserting a relation of belonging to the land that unsettles the space (Moreton-Robinson, 2003). This is not in any way to deny the very real impact of law and its ongoing refusal to recognize different understandings and experiences of property. Rather it is simply to point out the cracks in law – to recognize the reality of subversive property in order to explore its possibilities. Indigenous claims of belonging will be, as Irene Watson argues, 'forever a challenge to the settled spaces of the colony' (Watson, 2007). Moreton-Robinson similarly argues that indigenous subjectivity is 'a state of embodiment that continues to unsettle white Australia' (Moreton-Robinson, 2003).

The existence of subversive property and the unsettling of spaces cut across both the material–discursive and the subject–object/whole–part dichotomies. The ongoing presence of indigenous people who continue to resist assimilation into the hegemonic white culture disrupts the material landscape of settler states. Although state policies have systematically removed indigenous property to remote areas far from view (or to contained museums where the view is regulated), indigenous networks of belonging have never been erased completely. The very existence of remote indigenous communities taints the hegemonic understanding of Australia as one postcolonial nation with settled networks of belonging, a cohesive system of land title and a future carved along the same path. This material tainting of the landscape is not restricted to remote indigenous communities but also affects the spaces of the cities, where indigenous bodies and practices seem out of place. This persistent out-of-placeness is a material manifestation of subversive property; it unsettles the space. While this kind of out-of-place presence has been described by Moreton-Robinson as an example of the white system allowing indigenous people to occupy but not to possess Australian space (Moreton-Robinson, 2003), this occupation itself carves out property, asserting a network of belonging and disturbing the surrounding space. The Aboriginal Tent Embassy on the lawns of Parliament House in Canberra is an example of subversive property from the Australian context, and subversive property has been used as a political tactic in other contexts – subjects can change a space by refusing to leave it, or by refusing to orient themselves in the way the space was designed. Painting graffiti art on the Israel–Palestine partition wall, dancing and playing music inside police cordons and planting flowers in a bathtub on the boulevard are examples of subversive property that materially change the surrounding space. This material

unsettling of space also undermines the discourse that accompanies the dominant understanding of the space, throwing into question the systems and policies against which subversive property seems out of place. Subversive property disrupts the linear time produced by hegemonic networks of belonging. Through introducing things that do not belong or bodies that are not properly oriented, subversive property interferes with the long alignment of braided durations that constitute the proprietorial link between past, present and future. Adopting this spatial understanding of property thus allows room for the future to be reshaped.

## Notes

This research was funded by the University of Kent Law School and the Overseas Research Students' Assistance Scheme. Thank you to Davina Cooper, Sarah Lamble, Toni Williams, Emily Grabham and two anonymous reviewers for their comments on earlier drafts.

1. There is an assumption of able-bodiedness because the body must be capable of labouring/working the land.
2. At least not conquest in its traditional form of one sovereign power taking control of another people by military force. Many would argue that conquest continues in other forms today, particularly in 'postcolonial' settler states.
3. I am using the term law here to refer to the body of rules produced by the state through the parliament and the courts. An alternative approach to the questions posed in this article would be to explore whether different kinds of property can be understood as alternative legalities, but this is not the focus of my study. For a compelling exploration of what amounts to law, see Irene Watson (2002).
4. Although what counts as temporary depends on the network of belonging – financial trading is an example of a network where relations of belonging can be very short term but are still recognized and upheld as property.

## References

- Ahmed, S. (2006) *Queer Phenomenology: Orientations, Objects, Others*. Durham, NC Duke University Press.
- Ahmed, S. (2007) A phenomenology of whiteness. *Feminist Theory* 8(2): 149–68.
- Arneil, B. (2001) Women as wives, servants and slaves: Rethinking the public/private divide. *Canadian Journal of Political Science* 34(1): 29–54.
- Blomley, N. (1994) *Law, Space and the Geographies of Power*. London: The Guilford Press.
- Blomley, N. (2004) *Unsettling the City: Urban Land and the Politics of Property*. London: Routledge.
- Blomley, N. (2005) Flowers in the bathtub: Boundary crossings at the public-private divide. *Geoforum* 36: 281–96.
- Cohen, M. (1978) Property and sovereignty. In Macpherson CB (ed.) *Property: Mainstream and Critical Perspectives*. Toronto: University of Toronto Press, 155–75.
- Cooper, D. (2007) Opening up ownership: Community belonging, belongings, and the productive life of property. *Law & Social Inquiry* 32(3): 625–64.
- Davies, M. (1994) Feminist appropriations: Law, property and personality. *Social & Legal Studies* 3(3): 365–91.

- Davies, M. (1998) Queer property, queer persons: Self-ownership and beyond. *Social & Legal Studies* 8(3): 327–52.
- Davies, M. (2007) *Property: Meanings, Histories, Theories*. Abingdon: Routledge-Cavendish.
- Davies, M. and Naffine N, (2001) *Are Persons Property? Legal Debates about Property and Personality*. Sydney: Ashgate Dartmouth.
- Frankenberg, R. (1993) *The Social Construction of Whiteness: White Women, Race Matters*. London: Routledge.
- Gray, K. (1991) Property in Thin Air. *Cambridge Law Journal* 50(2) 252–307.
- Gray, K. (2007) The legal order of the queue. *Techniques of Ownership: Artifacts, Inscriptions, Practices*. London School of Economics July 20–21. Available at: <http://www.lse.ac.uk/collections/law/projects/techniquesofownership/tech-gray.pdf>.
- Greenhouse, CJ. (1996) *A Moment's Notice: Time Politics Across Cultures*. London: Cornell University Press.
- Grosz, E. (1999a) Becoming: An introduction. In Grosz E (ed.) *Becomings: Explorations in Time, Memory and Futures*. Ithaca, NY: Cornell University Press, 1–14.
- Grosz, E. (1999b) Thinking the new: Of futures yet unthought. In Grosz E (ed.) *Becomings: Explorations in Time, Memory and Futures*. Ithaca, NY: Cornell University Press, 15–28.
- Harris, CI. (1993) Whiteness as property. *Harvard Law Review* 106(8): 1707–91.
- Harvey, D. (1981) The Spatial Fix – Hegel, von Thunen and Marx. *Antipode* 13(3): 1–13.
- Hegel, GWF. Wood AW, (ed.), Nisbet HB (trans) (1991) *Elements of the Philosophy of Right*. Cambridge: Cambridge University Press.
- Kerruish, V. and Purdy, J. (1998) He 'look' honest – Big white thief. *Law/Text/Culture* 4(1): 146–71.
- Locke, J. (1978) Of property In: Macpherson CB (ed.) *Property: Mainstream and Critical Positions*. Toronto: University of Toronto Press, 15–28.
- Macpherson, CB. (1978) The meaning of property. In: Macpherson CB (ed.) *Property: Mainstream and Critical Positions*. Toronto: University of Toronto Press, 1–14.
- Massey, D. (2006) *For Space*. London: Sage.
- Moreton-Robinson, A. (2003) I still call Australia home: Indigenous belonging and place in a white postcolonizing society. In: Ahmed CCS, Fortier AM and Sheller M (eds) *Uprootings/Regroundings: Questions of Home and Migration*. Oxford: Berg, 23–40.
- Penner, JE. (1997) *The Idea of Property in Law*. Oxford: Clarendon Press.
- Pottage, A. (1994) The measure of land. *Modern Law Review* 57(3): 361–84.
- Radin, M. (1986) Residential rent control. *Philosophy and Public Affairs* 15(4): 350–80.
- Radin, M. (1987) Market-inalienability. *Harvard Law Review* 100(8): 1849–937.
- Radin, M. (1993) Reinterpreting Property. Chicago: University of Chicago Press.
- Rigsby, B. (1999) Aboriginal people, spirituality and the traditional ownership of land. *International Journal of Social Economics* 26(7/8/9): 963–73.
- Rose, C. (1994) *Property and Persuasion: Essays on the History, Theory and Rhetoric of Ownership*. Boulder, CO: Westview Press.
- Schnably, SJ. (1993) Property and pragmatism: A critique of Radin's theory of property and personhood. *Stanford Law Review* 45: 347–407.
- Watson, I. (2002) Buried alive. *Law and Critique* 13: 253–69.
- Watson, I. (2007) Settled and unsettled spaces: Are we free to roam? In Moreton-Robinson A (ed.) *Sovereign Subjects: Indigenous Sovereignty Matters*. Crows Nest: Allen and Unwin, 15–32.