

Antipode

A Radical Journal of Geography

Sarah Keenan, *Subversive Property: Law and the Production of Spaces of Belonging*, London: Routledge, 2015. ISBN: 9781138785892 (paper); ISBN: 9781138013988 (cloth)

Sarah Keenan opens her book with a case study centered on Prossy Kakooza, a lesbian asylum seeker: thus she establishes early on that she will be exploring the notion of property using a different set of lenses than those used by most theorists grappling with the complexities of possessing and regulating a valued resource. Rather than extending trajectories of property scholarship that focus on boundaries and exclusion, Keenan proposes a different line of thinking about property, one that zeroes in on the space in which the subject is embedded rather than on the propertied subject and rights of exclusion. Remediating what she sees as a theoretical shortcoming in legal geography, Keenan conceptualizes property not as a bundle of rights but, rather, as spatially contingent relations of belonging. Within this theoretical frame, she then deconstructs an often neglected pivot point of property: networks of possession. She theorizes property as a network of relations of belonging, instead of a spatially flat bundle of rights to a particular valued resource.

Keenan understands space to be something lived, something experienced, and therefore something that is not locatable. Following Tim Cresswell (2004), she arrives at this definition of space by moving the focus from positionality, *where* something is located in a three-dimensional space, and from a binary notion of ownership, *who* possess the bundle of rights to a particular resource, to the multidirectional relations *which* produce space. This theoretical perspective builds on the work of Doreen Massey (2005), who insists that space is never merely there; instead, space comprises interactions both large and small. It follows that space is multiple, simultaneous, and mixed; it is a compound of social, economic, political, and temporal diversity that is always under construction. Thus, unlike viewer-independent landscapes, space is always evolving, and therefore invariably conceptual.

Keenan endorses Massey's insight that though space is necessarily abstract, it is always regulated in some manner. Either through explicit formalized rules or as the result of collective

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or market-based mechanisms, space arises through the regulation of behavior. For Keenan enforceable regulations require another abstract concept: place. Never concrete, place is a moment within the much more sizable, ever-transforming dimension of space. Place becomes manifest when it is named. Place is temporary; it is a moment, an intersection within interpenetrating networks, and therefore it cannot ever be a discrete, fixed site. Place proves central to Keenan's development of her definition of subversive property. Because it is not a discrete site, property can be taken *with* people as they move through both space and time; it can be (re)enacted; and it can be communicated through both vernacular and legal discourse.

Discussions about neutrality and justice propel Keenan in her reconsideration of the legal concept of identity. Legal identity is built upon ideas of fixed positions, abstract rules, and universal justice. For Keenan, legal subjects are not permanently fixed ethically, socially, politically, or culturally. She insists legal subjects should instead be considered as situated in ever evolving networks of relations. Making this move from the fixedness of the body to the situatedness of the subject, she extends the inquiry of Maurice Merleau-Ponty (2013), who insisted that the body belongs to, combines with, and includes both time and space. Hence she comes to her conclusion that when moving through three-dimensional, mappable, and positionable landscapes, bodies take space with them. Keenan argues that this anti-essentialist view of the subject extends scholarship on Spinoza, who understood subjectivity to hinge on a world of factors external to rather than internalized within the human subject (see Gatens and Lloyd 1999). Buttressing her extensions of Spinoza and Merleau-Ponty with Massey's notion of space as a network of relations, Keenan convincingly argues that subjects are not simply surrounded by space, or even embodied in it. Instead they are part of space and space is a part of them. In Keenan's argument, it follows that, being interconnected with others and with space, subjects cannot move seamlessly through space; rather, as they move, they take space with them.

Keenan's notion of an interconnected subject stands at loggerheads with much legal geography scholarship, wherein space is considered to be separable from subjects. Therefore, in legal geography terms, subjects can occupy space, they can seamlessly move through space, and

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they can possess a bundle of property rights to a particular resource. This is assumed to be the case because legal scholarship has been traditionally underpinned by notions of universality and neutrality. To put flesh on the bones of this universal, neutral concept, Keenan asks us to consider the practical implausibility of a central notion in law: the *reasonable person*, a person who paradoxically has no class, gender, race, or sexuality. One of the key theoretical contributions her book makes is a well wrought challenge to the very concept of the legal subject as a subject that can be separated from surrounding space.

After thoroughly defining what she means by space and subjectivity, Keenan then moves on to critique the dominant, Lockean notion of property. For John Locke (1980), the subject already has property in himself; accordingly, he does not need to acquire it through any social or legal process. The labor theory of property Locke originated postulates that property is simply an extension of the individual white male. Keenan quickly sets Locke aside, in order to more thoroughly consider interpretations of Hegel's conceptualization of subjectivity. For Hegel a subject acquires subjectivity through processes of appropriation. That is, a person only reaches the state of subjectivity by acquiring property in something and then, necessarily, by having this property recognized by others (see Wood 1991). Nicholas Blomley (1998) echoes Hegel in his insistence that property is constituted by a convincing story—something that can only be realized within a community. Throughout her book, Keenan also weaves Davina Cooper's (2007) concept of property as networked relationships. For Keenan, property, like space, is a network of relations in which the subject is embedded. The subject remains central, but Keenan argues for a spatial rather than subject-centered notion of property. To her, property is a spatial formation that occurs when relations of belonging are, as she writes, *held up*, supported, by the spaces in and through which those relations exist. Having established her theoretical foundation, Keenan then presents her conception of property as an effective lens for bringing into focus questions such as: How is space produced? How does a particular subject come to belong in specific spaces?

Keenan shows that, part and parcel of space and personhood, relations of belonging are held up when wider social processes, structures, and networks give them force. Moving back to

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the legal subject, and extending Cheryl Harris' (1993) work, Keenan insists that whiteness can be considered as property. She argues that this is so not merely because of phenotypical attributes that white people possess, like skin tone and hair type but also because white people are embedded in specific networks of belonging and regimes of privilege. By extension, she claims that all socio-cultural properties, such as race, class, religiosity, and sexuality—attributes normally indicative of membership in identity groups—can be understood in terms of property, when property is defined in terms of belonging.

Absolutely central to Keenan's theory is Cooper's deconstruction of the notion of belonging. According to Cooper (2007), there are two types of belonging: subject-object and part-whole. Subject-object belonging captures the ownership model of property, that is, rights to an object or a space belong to a subject: a subject owns (rights to) an object. Part-whole belonging, and consequently part-whole property, has everything to do with identity—a legal subject's immersion in a whole of similar others. In these terms, white people are part of the whole of whiteness; Muslims are part of the whole of Islam; gays are part of queer culture. Both types of relations of belonging work in two directions. Keenan further develops this argument using examples of homeownership and sexual identity. A homeowner not only possesses her home, but her home also contributes to her self-identity, how she presents herself to others, and consequently how others relate with her. A lesbian woman is not only constitutive of queer culture, but queer culture also recursively acts upon this woman's identity and sense of self.

According to Keenan, these networks of belonging are necessarily spatial. Keenan writes, "subjects and objects are not simply *surrounded* by space nor are they *embedded* in space".¹ Furthermore, she argues that subjects and objects are a part of space and consequently space is a part of them. She argues that personal space does not end where the skin of the subject ends, insisting that the walls of a house or the edges of a mobile phone do not encapsulate houses and phones in discrete spaces. Keenan goes on to argue that both part-whole relations of belonging, such as being white or lesbian, and subject-object relations of belonging, such as owning a house

¹ I read an electronic version of the book using Routledge's "Bookshelf" ebook application; therefore I am unable to indicate page numbers in the print edition.

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or mobile phone, are, in fact, constitutive of personhood. That is to say that in terms of relations of belonging, property is part of identity.

Throughout the book, Keenan constructs her concept of subversive property, by which she means subversive relations of belonging that become manifest outside of the state and its legal system. Because they necessarily take space with them, Keenan sees diasporas as key exemplars of this dynamic. Keenan insists that taking space does not involve picking up some original or essential chunk of space from a point of origin and carrying it along to a new location. Instead this process is place-based. Recall, Keenan sees place as not being discrete or fixed; but, rather, as something that is conveyed in ideas and reenacted through ritual. Therefore, by maintaining social orders through the spatialization of identity-markers like fashion, vernacular language, music, and cuisine, and through the observance of festivals, holidays and rituals, diasporas (re)produce shared spatial relations. Thus, even though they are dislocated from their original location, diasporas take space with them to new locations. This is one of Keenan's key insights: that when mobile bodies reproduce relations of belonging, they carry space with them. At the end of the book, Keenan picks up this thread to stitch together a brief discussion of inheritance. Using haunting and ghosts as metaphors, she juxtaposes diasporic property with inherited property. Insisting that property inheritance can be both subject-object oriented, such as real estate, or part-whole oriented, such as whiteness, Keenan claims inheritance involves relations of belonging that are fixed in space while dislocated in time. On the other hand, diasporas dislocate relations that are fixed in time between different locations.

The bulk of empirical evidence Keenan presents to support her central argument exemplifies two types of property: property in land and properties of personhood. She develops a powerful example of property in land by deconstructing the intent and outcomes of the Australian government's 2007 Northern Territory National Emergency Response Act (NTNERA). This act was designed as a set of paternalistic laws based on a report alleging exceptionally high rates of child sex abuse in the Northern Territory. In addition to mandating a complete ban on the possession and consumption of alcohol, and compulsory income

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management for all welfare recipients, NTNERA involved an expression of the Commonwealth's desire for an eventual acquisition of rights to real property within specific areas of the Northern Territory. Keenan shows that the intent of NTNERA was closely connected to the Commonwealth's eternally-stated objective of normalizing Aboriginal communities in order to carry out a primary goal of colonization: cultural assimilation. To this end, the Commonwealth defined normalization within the frameworks of the values of the dominant white Australian culture. Keenan reminds us that land use decisions (in)authenticate all future productions of particular spaces of belonging on Australian land, because land use laws have great potential to (re)produce part-whole relations of belonging in terms of white Australia, Aboriginal Australia, or something in-between. Keenan then maps this power asymmetry onto physical locations, arguing that the reshaping of space over extended periods of time has the potential to disable Aboriginal relations of belonging. That is, Aboriginal bodies and practices can be construed so that they no longer belong on lands within the Northern Territory. Keenan illustrates this theme with the example of Alice Springs, where the Commonwealth became the new landlord, giving the Australian government the power to change the lease terms and modify the town camp's physical environment as it saw fit. Moreover, this contractual relationship allowed the micromanagement of communal and familial space. The Commonwealth can now institute lease terms that shape or even disable relations of belonging. For instance, lease terms can now include the prohibition of open fires in yards, which serve as communal heat sources—a prohibition which Keenan insists would work to discourage Aboriginal people from cooking culturally appropriate food. As another manifestation of state power over proprietary relations, lease terms can also include a ban against large numbers of people from temporarily or permanently residing in any structure. Keenan argues the inability to offer shelter to extended families in housing units would work to forestall any maintenance of connections between residents of Alice Springs and their family members who live out in the bush. Throughout the chapter on homelands, Keenan argues that what was at stake in the end, rather than the right of

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the Commonwealth to exclude Aboriginal people from a specific location, were its efforts to reshape relations of belonging to place.

In the chapter entitled “Your Lesbian Property Please”, Keenan takes up properties of personhood. Foregrounding the legal processes faced by lesbians from the global South who seek political asylum in the global North, Keenan shows that refugee law requires that claimants present their home states as unilaterally and completely homophobic spaces, in which lesbians are constantly and steadily at risk of sexuality discrimination and/or violence everywhere they go. She insists that issues of indigenous land struggles and sexuality-based asylum claims are in fact connected, because both issues revolve around law and the production of spaces of belonging—in her words, “spaces in which particular relations are held up and others are left unsupported”. Furthermore, simply establishing the fact that asylum claimants’ home states are dangerous is not enough for refugee courts. Refugee tribunals require indisputable proof of claimants’ lesbian status. Disturbingly, providing this type of proof can necessitate near-pornographic, filmed performances of claimants’ sexuality. It is more common, however, for refugee courts to certify claimants’ *belonging* to lesbian sexual orientation on the grounds of their demonstrable participation in the pink economy and corroborated involvement in stable, intimate relationships with other women. For this reason Keenan claims that “refugee law does not simply discover and declare pre-existing ‘lesbians’, but produces them, demanding that they be represented in particular ways.” Relations of belonging must be provable; thus claimants are forced to use credit cards at gay retail outlets and to be extraordinarily familiar with commercial locations in the city that are verifiably gay. The basis for this production of sexuality fits into a particular and often peculiar representation of retail-anchored, Western lesbian identity. Keenan argues that refugee law, being concerned with the legal subject, necessarily constructs this dubious representation of lesbian identity as universal. Here we see the potentially subversive property of the asylum seeker appropriated by the receiving nation-state: relationships of belonging for queer women fail to hold up unless these asylum seekers perform their identities in particular ways. For Keenan, this is an instance of governmental power over property relations.

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Consequently, refugee law's criteria for being a lesbian or, using Keenan's terms, for belonging to lesbian sexuality, then shapes the spaces of actions of subjects: they must satisfy court-determined criteria to prove that they are identifiably, indisputably lesbians. Following the logic of Keenan's theoretical model, this identity performance then affects the shape of the conceptual, social, and physical spaces in and through which these subjects move, and in which these subjects are embedded.

Throughout an entire book on property Keenan uses the term "territorial" only eight times.² What is more, she never uses the term "territory" to describe a bounded and fixed area (Blomley 2015), or "territoriality" to indicate control of people through the control of area (Sack 1986). In broad terms, property is a set of relationships between subjects and a bounded resource, a territory. Particularly in terms of public, private, and public-private property in land, the notion of property is necessarily a territorial matter. In order for the concept of real property to have any theoretical or practical utility, access to property must be seen to be controlled, and what occurs within this bounded space must be understood, at least to some degree, in terms of the regulation of the behaviors within this demarcated area. Practical matters like land use law and municipal zoning, along with theoretical analyses of the spaces that laws and zoning produce, are concerned with the close relationship between territory and property. While the omission of territory could be construed as a fatal shortcoming in a book on property, in actuality the choice to de-emphasize territory so as to concentrate on networks of belonging is a central strength of Keenan's outstanding theoretical exploration. To maintain focus on her already strong argument, she also avoids deconstructing theories of justice, concentrating instead on the conceptual limits of the legal subject, the spaces they move through, and the spaces they take with them as they move.

Subversive Property is a well researched, theoretically solid, and important addition to the scholarship of property. Sarah Keenan constructs her argument upon the firm foundation of her deep knowledge of land use policy, refugee law, legal geography, and philosophies of

² My word counts are based on a query using Bookshelf's search function.

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identity. Her brilliant insights wrench readers away from the conceptually-flat notion of property as a bounded resource over which individuals exercise a bundle of rights, and open multiple avenues for exploring the power and agency of those who exercise or, as the case may be, flout rights to property. By focusing our attention on action, she compels us to move beyond familiar, commonsensical explanations as to why certain people and behaviors belong in certain spaces while others do not. Keenan's intriguing reframing of the slippery concept property provides a strong theoretical link back to the notion of property in land, and thus proves, to my mind, that hers is indeed a book that explores relationships between territory and property.

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