An emergency response: Property and belonging in Australia's Northern Territory

Sarah Keenan
Oxford Brookes University

In this paper I explore the ways that property functions as part of the Australian government's 'emergency intervention' into aboriginal communities in the Northern Territory under the *Northern Territory Emergency Response Act (Cth) 2007*. The intervention was implemented for the professed reason of reducing high levels of child sex abuse in the Northern Territory, and the Act gives the federal government extensive powers over prescribed areas in the Northern Territory including the compulsory acquisition of long leases of aboriginal land. Analyzing the case of *Reggie Wurridjal, Joy Garlbin and the Bawinanga Aboriginal Corporation v The Commonwealth of Australia and The Arnhem Land Aboriginal Trust* [2009] HCA 2 ("*Wurridjal v The Commonwealth*"), which challenged the constitutionality of the government's compulsory land acquisitions, I argue that property is key to what is at stake for both the government and the affected aboriginal communities in the intervention. The property at stake cannot be understood simply as land or use rights, but also as the social and cultural characteristics of life on that land. Drawing on legal geography and on critical race and feminist theory, I will argue that property must be understood as a relation of belonging held up by the surrounding space – whether that relation of belonging is between a subject and an object (the legal understanding of property) or between a part and a whole (such as that between an aboriginal subject and her community). This understanding of property shifts the focus away from the propertied subject and onto the broader networks of relations that interact to form property. The High Court's difficulty in defining 'property' in *Wurridjal v The Commonwealth* demonstrates the ambiguous approach of law in answering the question of where aboriginality belongs in today's Australian state.