

# Volume 4.2 (1998)

## Articles

### [Contributing to Democracy](#)

*Carole Pateman*

#### *Abstract*

A popular claim in the 1990s is that citizens' standing and rights require a contribution on their part. Little attention has been given to the question of what should count as a contribution. The prevailing assumption is that only employment is what counts, and this assumption is linked to attacks on dependence, and a shift to an economic view of democracy and citizenship. Self-governing citizens are being reconceptualized as consumers and owners, especially owners of property in their persons. When democratization is linked to universal employment, some long-standing problems about democracy are obscured. For example, the problems of the refusal to count women's unpaid work as a contribution, even as structural adjustment is increasing its value, and the structure of authority in workplaces become marginalized. At a time when economic policies are eroding the conditions for democracy, the political question must be asked whether citizens' standing should be contingent upon a contribution.

### [Human Rights and Ethnocultural Justice](#)

*William Kymlicka*

#### *Abstract*

Liberal theorists have typically assumed that the protection of individual human rights is sufficient to ensure justice between ethnocultural groups in a multiethnic state. Will Kymlicka discusses three areas where traditional human rights principles are unable to protect national minorities from injustice: (a) internal migration and settlement policies; (b) redrawing the boundaries, or reducing the powers, of internal political subunits controlled by the national minority; and (c) language policies. In each of these areas, a state can effectively disempower a minority without abridging any of the individual civil and political rights of the group's members. To prevent these injustices, traditional human rights principles need to be supplemented with group-specific minority rights. Indeed, in the absence of these minority rights, the enforcement of human rights principles may exacerbate ethnocultural injustice. Kymlicka suggests that debates about the universality of human rights would be improved if they paid greater attention to these issues of ethnocultural justice.

### [Reassessing the Paradigm of Domestication: The Problematic of Indigenous Treaties](#)

*Isabelle Schulte-Tenckhoff*

## *Abstract*

The struggle of Indigenous peoples to gain recognition for their view of treaties is frequently a source of conflict between Indigenous and state parties, both in Canada and abroad. In this article, the author challenges the primitivist assumptions which continue to inform modern treaty jurisprudence, perpetuating the supremacy of state interpretation. The article begins by questioning the orthodox approach to relations between European powers and Indigenous peoples. Emphasis is placed on the process of domestication through which states aimed to subvert the position of Indigenous peoples as peoples, often ignoring or unilaterally amending treaties. This process resulted not only in the absorption of vast territories traditionally held by Indigenous peoples into the legal and political systems of the colonizers, but also in the emergence of a paradigm by virtue of which the factor of domestication was endowed with absolute explanatory value. The article also explores the views held by Indigenous peoples themselves on the treaty issue. It is argued that these views rely on a perspective recalling that of the Law of Nations era. Finally, the author addresses the relationship between law and culture in the treaty context. She argues that by defining the rights of Indigenous peoples in culturalist terms, one tends to blur the differences between Indigenous peoples and minorities. In contrast, when recognition of rights is derived from a relationship involving sovereign entities, the question of Indigenous peoples' rights is placed on another plane. The significance of this dichotomy clearly appears from a comparison of domestic efforts, such as the activities of the Royal Commission on Aboriginal Peoples, with international ones, especially the UN Study on treaties between Indigenous peoples and states.

## **Review Essay**

Essay Review of Joseph H. Carens (ed.)

[Persons/Peoples/Policy: Interrogating Neonationalism In Quebec: \*Is Quebec Nationalism Just? Perspectives from Anglophone Canada\*](#)

*F.C. DeCoste*

## **Comments**

[Giving Real Effect to Equality: "\*Eldridge v. British Columbia \(Attorney General\) and Vriend V. Alberta\*"](#)

*Martha Jackman*

[The Supreme Court, The Environment, and The Construction of National Identity: \*R. v. Hydro-Québec\*](#)

*Jean Leclair*

## **Book Reviews**

**Questioning the Limitations of Legal Reform: *Legal Inversions: Lesbians, Gay Men, and the Politics of Law***

*Margaret Hillyard Little*

**Changing Realities, Changing the Constitution: Amending Canada's Constitution:  
History, Processes, Problems and Prospects**

*Nelson Wiseman*

**Dispelling Myths: *The Clash of Rights: Liberty, Equality, and Legitimacy in Pluralist  
Democracy***

*Christopher P. Manfredi*

**Seeking Utopia: *Waiting for Coraf: A Critique of Law and Rights***

*David Johnson*