

to challenge suggesting that the approach risks establishing a singular, prescriptive Indigenous counter-hegemony that inadvertently marginalizes a variety of other resistances and knowledge(s) through epistemic isolationism. He further contends, drawing on Anishnabeg constitutional principles of “peace, friendship, and respect” (119), that completely abandoning treaties is not a viable option. Nonetheless, Baskatawang reiterates the importance of the Anishnabeg’s atemporal relationship to treaties, emphasizing that Treaty 3 must be continually re-examined and renewed, a process he describes as “polishing the silver” (120). To accomplish this, he advocates for the creation of a “Treaty 3 education committee” (129) which would ensure that the treaty remains a living document, actively engaging with and reflecting the evolving needs and perspectives of the Anishnabeg people(s).

The final chapter (5), tying everything together, reflects on the future, emphasizes the importance of fulfilling treaty promises, especially regarding education, and advocates for an education system that reflects Anishnabeg values and traditions. Indeed, Dr. Leo Baskatawang’s *Reclaiming Anishnabeg Law* is a critical and insightful examination of the ongoing struggle for the recognition and preservation of Anishnabeg legal knowledge(s) within the Canadian legal framework. This work stands as a significant academic contribution to Indigenous legal studies, skillfully bridging linguistic theory, personal anecdotes, traditional epistemologies, and historical-material context(s) to produce pragmatic policy recommendations including a call for action in establishing a Treaty 3 education committee. Nonetheless, his endorsement of state recognition and affirmation may invite critical debate. This facet of his work could elicit divergent opinions from scholars in the field of Indigenous studies who advocate for a politics of refusal rather than recognition. Although Baskatawang’s proposed perspective does not entirely dismiss the “turn away,” or “refusal” approach, suggesting that its applicability remains contextual, it will be intriguing to observe the reception of this text within academic and activist circles.

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## Democracy and Exclusion

**Patti Tamara Lenard, Oxford: Oxford University Press, 2023, pp. 232**

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Patti Lenard’s *Democracy and Exclusion* is an excellent contribution to contemporary debates about the rights of citizens and would-be citizens. When do states have the right to exclude people? What does this suggest about the duties of states to *include* people? In her most recent

contribution to debates about migration and democracy in diverse, multicultural societies, Patti Lenard seeks to answer these questions. She argues, persuasively, that anyone who is subject to the state's power for "an extended period of time" (p. 25), cannot be excluded from a wide range of state rights and protections. Lenard calls this the "all-subjected" principle. If this principle limits exclusions, she suggests, then it simultaneously implies positive duties to inclusion, so that both residents and citizens are able to participate fully in civic life.

Lenard's book takes up Joseph Carens' work about immigration, citizenship and community in multicultural societies. Her style of argumentation is directly inspired by his contextualism, an approach emphasizing the importance of bringing real-world politics to bear in considering philosophical principles and their import. The similarities end there, however, since in his writing, Carens (1987) argues for a world of open borders, with some exceptions, arguing that restrictive citizenship is akin to feudal privilege and just as illegitimate (p. 252). In contrast, Lenard maintains that open borders are not politically feasible in the current historical moment, so we must consider what rights states have to exclude people.

Substantive chapters address a range of thorny issues. In chapter two, Lenard begins not with citizens but with long-term residents. She argues that deportation is not admissible for any long-term residents since they are subject to the power of the state and, therefore, must have its protections. Pathways to naturalization, she argues, are the best ways to ensure such protections for long-term residents (p. 47), where citizenship is especially necessary for stateless people, like the Rohingya in Myanmar (p. 52).

In chapter three, Lenard turns her attention to the situation of citizens abroad, taking up the case of the children of foreign fighters. These children must have the "right of return" (p. 62), Lenard argues, even if this requires their repatriation with parents who pose security risks to the state. Following this reasoning, Lenard condemns the Canadian government for failing to "proactively" (p. 62) ensure children's right of return from Syrian refugee camps. This duty holds, Lenard emphasizes, even if the child's parents left Canada for the sole purpose of engaging in foreign wars for a terrorist group. Children are vulnerable to decisions made by adults on their behalf, so states have special rights to protect these citizens.

More contentiously, Lenard maintains that states have responsibilities for less vulnerable citizens abroad, including those who are known or suspected to have engaged in serious wrongdoing. In chapter four, Lenard argues that citizenship cannot be revoked, even in cases of dual nationals who are known to have engaged in terrorism. Lenard argues that not only the children of adult foreign fighters but the adults themselves must retain their citizenship and associated rights, including rights to security of person. Leaving Canadian citizens who are foreign fighters to languish in "dangerous and violent detention camps" abroad is therefore inadmissible. Such conditions cannot "*stand in for punishment*" (p. 84, italics in original), Lenard emphasizes. Rather, dual citizens who are foreign fighters have the right of all citizens to be repatriated when their security is threatened. Once home, they must be adjudicated within the domestic justice system.

If the security of persons is a strong citizenship right, Lenard maintains that other state obligations to adult citizens abroad are weak, especially citizens who are not long-term residents (p. 65–68). Long-term residents abroad are not subject to the institutions, laws and culture of their country of citizenship since they reside elsewhere. Therefore, non-resident citizens can be denied the right to vote because they are not subject to the laws of the state where they are citizens on a day-to-day basis. There are some exceptions, for instance, military personnel who serve abroad and who intend to return to Canada, should have the right to vote since they will be subject to the laws of Canada when they return. By the same logic, long-term residents should be allowed to vote since they are subject to the laws of the state where they reside.

What about the rights of visitors seeking temporary entry to a state? In chapter five, Lenard argues that it is permissible for states to seek proof that visitors are not dangerous for national security, among other criteria, but they must have a quick and transparent appeal process to

guard against abuses (p. 95). This is necessary given well-known risks that visas, for instance, will be denied on illegitimate grounds, notably because of racial or religious discrimination. Similarly, Lenard argues that states cannot assess visa applications based on the behaviours of others, for instance, on the grounds that visitors from a given nation are disproportionately “overstayers” (p. 98). This violates the rights to free movement of individuals on the discriminatory basis of their group belonging.

If restrictive visas are permissible, highly restrictive visas are problematic, Lenard continues, since they have dangerous implications for refugees. When refugees are faced with overly stringent visa requirements, they are prevented from using regular travel to reach the state’s territory, in a context where it is necessary to be within a state to make a claim for asylum. Many refugees then resort to more dangerous, illegal entry points. States may have visa restrictions, but they must not be created for the implicit purposes of restricting potential asylum claims (p. 99). This creates excessive dangers for refugees and restricts the exercise of their right to asylum.

Whatever their reasons for arriving in a state, temporary visa-stayers have limited rights. As they transition to become long-term residents, however, they are increasingly subject to the power of the state. The “all-subjected” principle then demands that the long-staying, temporary migrant be allowed access to citizenship. This requires pathways for temporary visitors to transition to permanent resident status and eventually to “full inclusion in the state” (p. 106) through citizenship.

In chapter six, among other concerns, Lenard explores temporary migrant labour. She recognizes that a “strict” (p. 124) application of the “all-subjected” principles would disallow such programs since they do not offer sufficiently strong protections for eventual citizenship for migrant workers who are subject to state laws. She suggests that real-world employer demands for valuable workers in jobs that are not desired by residents means, nonetheless, that they are permissible, as long as such workers have clear paths to naturalization and that workers’ rights are protected during their stay (p. 124–5). If Lenard rejects the idea that migrants must necessarily be (economically) “deserving” to stay—rather if subject to the state’s rules, residents must have rights—she emphasizes that it is less a question of who is deserving than a matter of justice. Democratic states, she argues, cannot host migrant labourers in ways that create a “systematic second-class status” (p. 114).

In chapter seven, Lenard considers duties to new arrivals to a nation, arguing that the state has strong duties to protect migrants from the discrimination they have experienced in their country of origin, for instance, by educating other new citizens about “the importance of tolerance and respect for others” (p. 151). If homophobia was tolerated in the home nation, for the protection of LGBTQ+ migrants, it must be made clear such discrimination is not allowed in Canada. At the same time, migrants should be told that, nonetheless, they are likely to face instances of homophobia—since Canadians do not always live up to ideals of equality—making immediate connections to supportive networks important to the full inclusion of LGBTQ+ migrants (p. 151).

In chapter eight, Lenard argues that naturalization ceremonies should be understood as a solemn moment when would-be citizens agree to abide by the laws of the state. She argues that accommodations should be made within the ceremony, for instance, naturalizing citizens can be permitted to refuse a handshake. Refusals to shake hands are trivial, Lenard suggests, compared to the risk of refusing whole religious groups who do not desire to shake hands. Moreover, positively recognizing minority people’s rights to engage in non-dominant cultural practices, like refusing handshakes, while still agreeing to respect the laws of the state, is itself an important principle in multicultural states. Exclusion is permissible when a would-be citizen professes anti-egalitarian principles that are enshrined in law, for instance, a White supremacist can be refused citizenship. But such values cannot be inferred from minority cultural practices, like refusals to shake hands.

As I hope this review suggests, *Democracy and Exclusion* offers an “honest and forthright” (p. 4) examination of questions about what states owe to citizens, residents, temporary and

longer-staying visitors, and asylum seekers. The book's major strength is Lenard's direct engagement with difficult questions about what states owe to people within, beyond and at their borders. She never shies away from controversial cases, for instance, the rights of citizens who are foreign fighters for terrorist groups. This is political philosophy at its best, rigorously following through the implications of the "all-subjected" principle to help make just, real-world decisions about citizens, residents and would-be citizens' rights.

Political scientists and philosophers broadly concerned with democracy, migration and mobility and multiculturalism should find Lenard's contribution of significant interest. In teaching, individual chapters will be useful for taking up focused questions, for instance, concerning visas and permissible restrictions on visas or the rights of refugees. At the same time, Lenard's careful consideration of objections and her systematic efforts to answer them are useful models for students who are learning how to craft careful arguments and analysis.

Occasionally, Lenard's contextualist approach appears slippery, with no particular grounds for accepting some aspects of our political life while rejecting others. Historical precedent is evoked (for instance, p. 165), presumably to show that a practice is feasible, but this is distinct from asking whether or not it is just. Further, if contextualism pretends to focus on what is both just and feasible, in a familiar critique, this risks a tendency to a certain conservatism. As I noted at the beginning, Carens begins his call for open borders by suggesting that feudal privileges that once seemed natural, now appear archaic, reminding us that political arrangements that appear inevitable may quickly become mere historical fact. Arguably, it is in using our political imaginations most fully that we conjure up more just worlds. Thinking creatively about what is politically possible begins to change what is politically possible. Another quite different limitation of the book is that Lenard assumes that reasoned arguments matter to debates about citizenship and migrants' rights. In the current context, disinformation and populist appeals to emotion may hold greater sway than reason, especially with the general public. Her conviction in the power of reasoned argument may appear naïve, although that naiveté may be especially valuable precisely because it counters the marginalization of reason in too much academic and contemporary political debate.

Overall, *Democracy and Exclusion* is a clearly written, rigorously argued exploration of rights in and across borders. It is an example of truly excellent political philosophy, writing that is important because it is engaged with questions that matter for human beings who, for better and for worse, still live in a world of bounded states.

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## Beyond Rights: The Nisga'a Final Agreement and the Challenges of Modern Treaty Relationships

Carole Blackburn, Vancouver: UBC Press, 2021, pp. 184

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With her book, *Beyond Rights: The Nisga'a Final Agreement and the Challenges of Modern Treaty Relationships*, Carole Blackburn asks whether the modern treaty can reform the