

## A 345235 Multicultural Jurisdictions State to dandelon.com

Cultural Differences and Women's Rights

Ayelet Shachar



## Contents

Preface		<i>page</i> xi
1	Introduction Accommodating differences and respecting rights: an unattainable marriage An exploration of the institutional issues surrounding multicultural	1 e? 4
	accommodation	8
	Outline of the book	10
	The road ahead	15
2	The perils of multicultural accommodation	17
	Standard citizenship models	20
	Citizenship: the bond between the individual and the state	21
	The missing third component	22
	Why we need a multicultural conception of citizenship	22
	Potential conflicts: group, state, individual	25
	Strong and weak versions of multiculturalism	28
	Three types of group response to assimilation pressures	33
	Full assimilation	33
	Limited particularism	34
	Reactive culturalism	35
	The inevitable inside–outside interaction	37
	Against "non-intervention"	37
	The "domestic impunity" fallacy	40
	Summary	42
3	Family law and the construction of collective identity	45
	Incidental vs. systemic in-group violation	47
	The anatomy of family law	49
	Family law's demarcating function	51
	Family law's distributive function	54
	Cultural preservation, multicultural accommodation, and women's in-	
	group subordination	55
	Women's heightened responsibility and heightened vulnerability	55
	The agunah test case	57
	Reactive culturalism and multicultural accommodation	60
	Summary	61

х	Contents

4	State vs. nomos: lessons from contemporary law and	
	normative theory	63
	Two theoretical responses to the paradox of multicultural vulnerability	64
	The re-universalized citizenship option	65
	The unavoidable costs approach	68
	Transcending the either/or framework	70
	A critique of current legal approaches	71
	The secular absolutist model	72
	The religious particularist model	78
	The insufficiency of current theoretical and applied legal models	85
5	Sharing the pieces of jurisdictional authority: mapping the	
	possibilities	88
	The joint governance approach	88
	Mutually re-enforcing rights and nomos	89
	The plurality of joint governance	90
	Jurisdictional solutions	91
	Variants of joint governance	92
	Federal-style accommodation	92
	Temporal accommodation	96
	Consensual accommodation	103
	Contingent accommodation	109
	Summary	113
6	Transformative accommodation: utilizing external protections	
	to reduce internal restrictions	117
	Principles of transformative accommodation	118
	Allocating jurisdiction along "sub-matter" lines	119
	The "no monopoly" rule	120
	The establishment of clearly delineated choice options	122
	Transformative accommodation vs. other variants of joint governance	126
	Decision-making across jurisdictional boundaries: tensions and possibilities	128
	Family law revisited: fostering change "from within"	131
	Dividing demarcation from distribution	132
	Breaking the property-status extortion cycle	135
	Empowering the once vulnerable	138
	Harnessing group survival instincts	140
	Summary	143
7	Conclusion	146
	Appendix: How transformative accommodation works in	
	different social arenas	151
P	have a a	166
	References Index	
In	aex	187

Index