Minority cultural groups make a range of demands for the legal accommodation of their cultural and religious traditions. Where the values and practices of minority groups conflict with those expressed in the law, these groups may demand that the law be changed to tolerate, protect and preserve their cultural and religious practices. These demands may present particularly complex challenges where the religious and cultural traditions at issue deal with the rights of women. Women’s claims to equality and the claims of culture may come into conflict over norms of marriage and divorce, modesty in female attire, surgical alteration of women’s bodies, property rights, freedom from violence and personal and political decision-making.

This course aims to enable students to read these legal debates in light of the rich literature on multiculturalism, gender and human rights and to critically evaluate the notions of culture at play in them. Students will consider why membership in ethnic, cultural, and religious communities should be important in liberal democracies. We will ask how cultural claims can be balanced against the need for shared civic values. We will explore how far accommodation should go and what forms it should take. We will ask why the rights of women are so often at the heart of these debates over cultural and religious identity. We will also deal with the debate over whether human rights theory, and the legal instruments which reflect it, seek to impose universal values or culturally relative ones. The course will conclude with an opportunity to reflect upon how to design and implement effective law reform strategies by considering the options of facilitating exit, limiting the power of religious and cultural authorities and fostering transformative dialogue within religious and cultural communities.

**Workload:**

Four-Credit Course (with three hours of class-time per week)
Success in this 4 credit hour course is based on the expectation that students will spend a minimum of 9 hours of study time per week in preparation for class (readings, papers, discussion sections, preparation for exams, etc.).

**Grading:**

Weekly response to readings: (two paragraphs) on each source. What is the problem being addressed? What is the writer’s argument? What is your evaluation of it? (20%)
2 X 5-7 page papers on the readings (due in Feb and March) (20% each)

Final research paper (on a topic chosen in consultation with me) 10 -12 pages (40%)

No Prerequisites. Open to undergraduate and graduate students

**Academic Integrity**

You are expected to be honest in all of your academic work. Please consult the university webpage for all policies and procedures related to academic integrity. Allegations of alleged academic dishonesty will be forwarded to the Director of Academic Integrity. Sanctions for academic dishonesty can include failing grades and/or suspension from the university.

**Disabilities**

If you are a student with a documented disability on record at Brandeis University and wish to have a reasonable accommodation made for you in this class, please see me immediately.

**TOPICS**

1. **INTRODUCTION: CULTURE IN THE LIBERAL TRADITION**


   **Learning Objectives:** Students will begin to locate the notion of culture in the history of liberal political theory and understand its potential as both a threat to and instrument of political cohesion. We examine the emergence of the notion of culture and consider the role it has played in the development of individual and national identity. We consider the contrast between civic cultures and minority cultures and the responses various states have made to actual and potential conflicts between them.

2. **WHY SHOULD LIBERALS CARE ABOUT CULTURE?**

Learning Objectives: Students will understand the argument that culture should be conceived as a primary good. We consider Kymlicka’s thesis regarding the importance of cultural identity and its roots in arguments from equality and autonomy.

3. REFLECTIONS ON THE NOTION OF CULTURE


Learning Objectives: Students will identify different notions of culture deployed in the gender and multiculturalism debate. We consider competing notions of culture and compare their explanatory accuracy and power. How does the way culture is conceptualized affect the range of strategies available to deal with conflicts over culture? Can a culture speak with multiple voices?

4. MULTICULTURALISM AND IDENTITY


Learning Objectives: Students will be able to locate debates about multiculturalism in the context of 20th century debates over the nature of the liberal self. Are we able to choose and adapt our cultural and religious commitments in a detached way or are we born encumbered by and committed to certain cultural values? What implications do these characterizations have for political and legal philosophy?

5 and 6 COMPARING PERFECTIONIST AND POLITICAL LIBERAL JUSTIFICATIONS: CHOOSING CHILDREN’S EDUCATION

John Rawls, Priority of Right and Ideas of the Good in POLITICAL LIBERALISM (2D Ed .2005) 173-211.
Wisconsin v.Yoder 405 U.S. 205 (1972)
Video: Ultra Orthodox Yeshiva Controversy PBS RELIGION AND ETHICS NEWSWEEKLY 1/29/2016 at yaffed.org
Learning objectives: What interests does the liberal state have in shaping and limiting the preferences of its citizens? We consider the rights of religiously observant parents to choose the nature of their children’s education. Students will be able to articulate and evaluate the competing interests of parents, children and the state in debates over sectarian and homeschooling from a perfectionist and political perspective.

7. MULTICULTURALISM AS MENACE

Brian Barry, CULTURE AND EQUALITY, chapter 8, The Politics of Multiculturalism (2001) 292-328
Clare Chambers, All Must have Prizes: the Liberal Case for Interference in Cultural Practices in SEX, CULTURE AND JUSTICE 117-158 (2010)

Learning Objectives: What threats does multicultural toleration pose to political stability and solidarity? Can these be contained?

8. CULTURAL RELATIVISM


Learning Objectives: Students will consider how far accommodation of cultural difference should extend. We evaluate the claims and problems of cultural relativism.

9. LOCATING WOMEN IN THE DEBATE: THE QUESTION OF POLYGAMY

Reference Re Section 293 of the Criminal Code of Canada (The Polygamy Reference)
British Columbia Supreme Court, 2011 (excerpt)

Learning Objectives: Students will consider how women are implicated in debates over multiculturalism as objects and agents of discourse. Culture is often a device invoked to justify the perpetuation of women’s equality. Should feminists struggle to emancipate women from cultural practices to which they themselves do not object? What is the link between feminism and colonialism and feminism and essentialism?

10. CULTURE AND WOMEN’S BODIES
Yael Tamir, Hands off Clitoridectomy and responses from Martha Nussbaum and Tamir. BOSTON REVIEW (1996)
Martha Nussbaum, Judging Other Cultures: The Case of FGM in SEX AND SOCIAL JUSTICE (1999) 118-129
Fadumo Korn, BORN IN THE BIG RAINS (2008)

Learning Objectives: Students will be able to critically evaluate the literature on FGM. Why is it a recurrent trope in gender and multiculturalism debates? How is it distinguished from other forms of aesthetic surgery practices in the West? What do effective campaigns teach us about strategies for dealing with culturally based gender oppression?

11. STRATEGIC RESPONSES: EXIT
Memoir: Shulem Deen, ALL WHO GO DO NOT RETURN (2015) (excerpt)
VIDEO: One of Us 2017.

Learning Objectives: Students will consider whether exit by women from patriarchal cultural communities is the answer. Is it desirable? Is it feasible?

12. STRATEGIC RESPONSES: EXTERNAL LIMITS ON CULTURAL POWER
Learning Objectives: In this class, we consider approaches that attempt to respect cultural difference while circumscribing the powers that can be exercised by cultural groups. Should we distinguish between religious communities and other cultural groups? Are these strategies effective? We consider the situation of women denied divorces under Jewish law.

13. STRATEGIC RESPONSES: DIALOGUE


Learning Objectives: Students will be able to critically evaluate the notion of transformative dialogue. Can state intervention be used to encourage internal dialogue about the way traditional norms should be developed to respect the rights of women? Can we preserve culture as a forum for discussion and self-development while changing particular practices?