

Evaluating Political Claims Based on Cultural Identity

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1. Introduction

In his book *Cultural Identity and Political Ethics*, Paul Gilbert discusses the case of Faiza Silmi, a Moroccan woman who lives in France with her husband and four children, all of who are French citizens. When Ms. Silmi applied for French citizenship herself, the Conseil d'Etat refused her application on the grounds that her religious practice – wearing a *burqua* – is against the “essential values of French community” and is incompatible with a French cultural identity. Gilbert uses this case as starting point in his analysis “of the relationship between the body and cultural identity that it encapsulates” (Gilbert, 2010:96), but I want to use it as an illustration of Gilbert’s approach to the problem of cultural identity. Unlike most contemporary critics of the politics of identity and multiculturalism, Gilbert doesn’t concentrate solely on those cases where minorities make controversial claims by invoking their cultural identity, but shows that call for the protection of such identity, as in the case of Madam Silmi, can come from majority as well. Both sides can play the political game of invoking cultural identity and it is, Gilbert believes, a dangerous game. Gilbert main concern is the philosophical coherence of the very idea of cultural identity and how that idea translates into political realm. His goal is to “to scrutinize the foundations of a politics of cultural identity” (*ibid.*, 13). Here again his approach differs from that of other political theorists critical of multicultural project who usually launch their attack on this project from a specific - liberal, republican, feminist, etc. –

position. Gilbert's book strives to "join the assault on the politics of cultural identity, but to do so without espousing any of the various theoretical positions – liberalism in some form, cosmopolitanism or whatever – from which it is generally launched" (*ibid.*, 13).

The aim of this paper is to explore the concept of cultural identity as it is invoked in contemporary political discourse. Is cultural identity a coherent concept? Do claims of preservation of cultures rest on solid philosophical grounds? How can we determine which claims of cultural identity are valid and which are not? Or is the case that the concept of cultural identity is so vague that we should abandon it altogether? I will try to answer these questions by engaging into a polemic with Paul Gilbert arguments presented in his book *Cultural Identity and Political Ethics*. The advantage of this book, as mentioned before, is that addresses the issue of cultural identity on its own merit without invoking any particular ideological framework. Therefore, it offers a good starting point from which to address these questions.

Gilbert's criticism of the politics of identity rests on two main arguments. First one questions the assumption that members of cultural groups actually share "cultural features" that "can be collected together in such a way as to characterise its participant's whole way of life... so that one culture can be distinguished globally from another as picking out a distinct way of living" (*ibid.*, 3). It is clear what we mean when we talk about person's *individual* cultural identity as "her linguistic and literary background, her religious and moral education and choices, her socially acquired attitudes and manners" (*ibid.*, 2). This type of identity is most often "unique to its possessor" (*ibid.*, 3) because it represents a certain hybrid of different cultural influences a person has acquired through her life. It is much less clear what we mean when we talk about a group's *collective* cultural identity. For us to be able to coherently talk about collective identity of a group it is not enough to point out some cultural feature shared by the members of that group, we need to explain how sharing certain feature constitutes a community. Gilbert's argument is that this move is, more often the not, deeply problematic.

There are two reasons for this. First, if we test some of the features given as an example of glue that holds the specific cultural groups together - Gilbert gives examples of language, shared values or shared history – it turns out that either this feature is shared with some who are not recognized as members of

that specific cultural group or that not all members of cultural group in question share that feature. That means that features put forward when arguing for cultural preservation of group's collective identity are either to wide (they do not exclude members of other groups) or to narrow (they do not cover all the members of that group). This, of course, means that listing cultural features as proof of unique collective markers that distinguish members of one groups from members of other groups will be unconvincing. Second, even in cases where there is a cultural feature that allows us to identify all the members of a specific group and exclude those who are outside that group, it does not follow that such a cultural group "should... necessarily be thought of as a community" (*ibid.*, 4). Invoking community, Gilbert points out, presupposes "a group of people actually leading a common life", but a cultural group "in circumstances in which they find themselves they may not have the sort of interactions between themselves that are needed for this, while in fact having just such interactions with members of other groups" which suggest that "if there is any community they are part of, then it is a multicultural one" (*ibid.*, 5). This point often gets lost in debates on multiculturalism when the preservation of group identity is falsely equated with the preservation of a community.

Gilbert's second argument is that one's collective cultural identity is not necessarily a *deep* one, but is often nothing more than *surface* identity. By this he means that certain feature offered as an essential part of person's cultural identity does not play an important part in determining that person's behavior or rationality of her actions, but its main purpose is to help that person to differentiate himself from those not considered to be members of her group. "Since it is", Gilbert argues, "only to the extent to which some psychological feature of person's identity goes deep with her that there is taken to be a duty to recognize it in one's dealings with her, so a cultural identity must be theorized as something deep for the ethical demand to carry over to it" (*ibid.*, 59). Claims of preservation of cultural identity in the political realm make sense only if they have a certain moral weight and that assumes that we are talking about deep and not surface identity.

Gilbert maintains that pointing out these two elements – the distinction between *individual* and *collective* identity on one hand and between *deep* and *surface* identity on the other - when discussing the philosophical coherence of

the notion of collective identity is not arbitrary because “[i]t matches... the use made of the notion by those who invoke it in support of various political claims” (*ibid.*, 4). His main argument is that political claims based on cultural identity have no validity because they rest on a misconceived understanding of what cultural identity is and what it entails. I will argue that Gilbert’s position is compelling, but that it is limited only to some and not to all political claims that invoke cultural identity. More specifically: the claims that rest on an essentialist, comprehensive and deep understanding of cultural identity are open to Gilbert’s attack. Those claims, however, that invoke a constructivist and more dynamic understanding of cultural identity are, I believe, immune to Gilbert’s criticism.

2. *Limits of Gilbert’s approach*

Gilbert’s two core arguments have a limited reach: they point out only the limits of Herderian understanding of cultural identity. By Herderian I mean those theories that rest on following presuppositions on the nature of culture and its relationship to one’s personal identity:

1) *Comprehensive nature of culture*. Person’s cultural identity is, as Gilberts puts it, “taken to be fairly all embracing” (*ibid.*, 4) and determines, if not all, then most of important aspects of that persons’ life. Therefore, to understand person’s actions and justification his gives for those actions, it is necessary to understanding the culture she belongs to.

2) *Culture as given*. Our cultural identity is something *we are*, rather than something *we can choose to be*. As individuals we are determined by a long tradition of culture we belong to. That does not mean this tradition has to be static and can never be put to question, but this process itself is determined by tradition and does not allow us, without completely leaving the framework of our culture, to arbitrarily choose who we want to be.

3) *Authenticity of culture*. If we do not follow the ways of our culture, we are living inauthentic existence and can not truly flourish and develop as persons. Because the rationality of actions is determined by belief system endorsed by our cultural group, the loss of one’s cultural identity results in loss of coherence of one’s actions.

4) *Mosaic nature of cultures*. Seyla Benhabib talks about ‘mosaic’ model of culture as a view that ‘cultures are clearly delineated and identifiable entities that coexist, while maintaining firm boundaries’ (Benhabib, 2002: 8). Therefore, cultures and members of these cultural groups are easily distinguishable between each other.

5) *Holistic nature of cultures*. Cultures show a very high level of unity on issues of basic beliefs and values, as well as sharing those cultural features – such as language or shared history – that both unite them with all the members of their own group and differentiate them from members of other groups.

6) *Cultures as closed frameworks*. Cultural traditions or specific elements of these traditions should only be questioned, changed, reformulated or abandoned from within and never from without. If every cultural group is a closed unit relying on its own tradition and its own notions of rational and reasonable behavior, then any sort of imposition from outside that group represents cultural imperialism.

Herderian model is valid only if we accept that person’s individual cultural identity is identical to collective identity of his cultural group, that cultural groups are always identical to communities, that cultural identity is always more than just a surface identity and that central cultural features of a specific group are both unique to that group and shared by all of its members. Otherwise it is impossible to maintain any of the six presuppositions listed above. The strength of Gilbert’s criticism rests on putting into question each of these suppositions and in this way exposing the Herderian model as philosophically unintelligible. However, it is worth noting that Herderian model of understanding cultural identity is not the only game in town. There is, at least, one more way one can approach the idea of cultural identity. In her book *Claims of Culture* Benhabib points out the difference between *essentialist* approach (what I call *Herderian* approach) and a *constructivist* approach that sees cultures as “constant creations, recreations and negotiations of imaginary boundaries between ‘we’ and ‘us’” (*ibid.*). If we look at case of Ms. Simli through constructivist, rather than Herderian lens, the central question is not if wearing a burqa is against essential values of French community or not, but whether the representatives of French community (in this case Conseil d’Etat) should define what it means to be French through rejection of burqa. This constructivist approach, I want to

argue, is immune to Gilbert's line of attack and, therefore, offers a possibility of invoking cultural identity claims in the political discourse in a coherent and a meaningful way. If we assume that collective cultural identity is something that is primarily constructed rather than given, issues of individual vs. collective cultural identity, cultural groups vs. community, deep vs. surface identity or comprehensiveness of group's cultural features fade in relevance.

These two different approaches to the idea of cultural identity – Herderian and constructivist - invoke different notions of recognition. Patchen Markell in his book *Bound by Recognition* talks about two such types of recognition. First one is *cognitive recognition* that appears when we are recognizing and evaluating something that is already existent. Markell gives an example of recognizing an old friend walking down the street. The equivalent of this type of recognition, when talking about cultural identity, would be the recognition of one's belonging to an existing cultural group by identifying a specific feature shared by members of that group. Second type of recognition is *constructivist recognition* where the act of recognition itself represents an act of forming one's identity. The example Markell gives is when, at a business meeting, a chairperson recognizes a speaker: chairperson is not “merely manifesting her awareness of a status that already really exists... the privilege of speaking is itself a product of the chairperson's institutionally authorized act of recognition” (Markell, 2003: 40). In the realm of culture, this would mean that the process of public recognition (or misrecognition) of a specific group leads to formation or reformulation of that group's collective identity.

My argument is that Gilbert's questioning of the validity of political claims based on preservation of cultural identity in an attack with a dull blade when it comes to constructivist understanding of culture and acts of constructivist recognition. Although it might be often the case that representatives of both minority and majority groups arguing for the preservation of their culture fall into Herderian trap, it would be wrong to presume, as Gilbert seems to do, that politics of cultural identity inevitable rely on Herderian model. I believe that this presumption of Gilbert's leads him to misinterpret two prominent authors that played pivotal roles in contemporary debates on issues of national and cultural identity,

multiculturalism and politics of collective recognition - Isaiah Berlin and Charles Taylor - as being Herder's heirs. It is true that both of these authors have been greatly influenced by Herder, but neither of them are advocates of the Herderian model as described above. At the beginning of the third chapter of his book, Gilbert gives us an extensive quote from Isaiah Berlin that clearly puts Berlin in Herderian camp (Gilbert, 2010: 39-40). The problem is that this quote does not, as Gilbert suggests, represent Berlin's own position, but rather a description of the process of birth of aggressive nationalism of which Berlin himself was very critical. The major difference between Herder and Berlin is that when Herder talks about a universal need to belong to a cultural group he takes an essentialist view of belonging to a group in which one was born and raised as the only authentic mode of existence. Berlin argues that sort of thinking is in the root of aggressive nationalist movements in the 20th century. For him the need to belong manifests itself in the fact that it is not possible to be completely outside all existing cultures, but we can still live authentic lives if we change the culture we belong to or, more likely, if our personal cultural identity is determined by cultural elements of several different groups (Berlin himself, as a Russian Jew born in Riga who spent most of his career in British intellectual circles, is the best example of this). This is why we should think of Berlin not as a Herderian/essentialist, but as a constructivist when discussing the nature of cultural identity.

With Charles Taylor, things are a bit more complicated: Patchen Markell is, I believe, right when he argues that Taylor has both an essentialist and a constructivist notions of culture and recognition, but Taylor's emphasis in his seminal essay "The Politics of Recognition" on the important role that the dialog between the cultures plays in forming of cultural identities suggests he refuses to see cultures as necessarily given, closed or authentic. If Taylor is Herder's heir, as Gilbert, claims, he is a skeptical heir with a strong constructivist bent because a consistent Herderian could never argue as Taylor does that "we define our identity always in dialogue with, sometimes in struggle against, the things our significant others want to see in us" (Taylor, 1994: 32-33). Gilbert does acknowledge that Taylor's account of identity is more complex than Herder's, but argues that Taylor's tendency to talk both about "self-definition" of identity and identity as a matter of

discovery is an “unstable combination” (Gilbert, 2010: 43). However, unlike other critics of Taylor relying on a similar line of argument – such as Markell, Anthony Appiah (1994) or Sasja Tempelman (1999) – Gilbert’s goal is not only to suggest that advocates of multiculturalism should avoid using Herderian arguments or arguments that rest on some kind of mixture of Herderian and constructivist approach, but that we should abandon the whole project of multiculturalism as philosophically incoherent.

3. Three models of dealing with cultural difference

More importantly than determining if certain political theorists fall into Herderian camp or not is to try and see what is an actual background behind the claims based on cultural identity in contemporary political discourse. This gives us an opportunity to see how a constructivist approach to defining cultural identity can translate into valid political claims. Multiculturalism (and, more broadly, identity politics) is a theoretical model designed to deal with a problem of difference within a political community. As such, it was built on the ashes of two previous models that addressed the same issue: the model of assimilation and the model of neutrality. The inadequacy of these two models gave rise to identity politics.

A historical example of the politics of assimilation is “Edict Concerning the Civic Condition of the Jews in Prussian State” from 1812 granting civic rights to Prussian Jews which they were previously deprived of. The list of these rights included “the right to obtain academic posts and local public offices (though the question of service in other public offices was deferred); the right to practice previously restricted crafts and trades; the freedom from special taxes; the liberty to pass on property to all their children (not just the first and second sons); the freedom to marry and divorce without special permission; and freedom of residence in the cities and the countryside” (Markell, 2003: 132). Emancipation of the Jews, however, came at the price. For them to be able to enjoy “the same civic rights and freedoms as the Christians” they had to be ready to sacrifice parts of their Jewish identity. Equal rights were granted only to those ready to adopt Western-sounding surnames and use of German (or some other living European) language and

Latin script when conducting business or attending to legal matters. Most importantly, the Edict deprived “rabbis and community elders of all legal jurisdiction and authority” and put “Jewish affairs almost entirely under Prussian law” in order to avoid the existence of the state within the state (*ibid.*, 136). The politics of emancipation came hand in hand with politics of assimilation. This formula was a common stock of progressive liberal thought in 19th century and was advocated even by John Stuart Mill who, in his *Considerations on Representative Government* argues: “Experience proves, that it is possible for one nationality to merge and be absorbed by another: and when it was originally an inferior and more backward portion of the human race, the absorption is greatly to its advantage. Nobody can suppose that it is not more beneficial to a Breton, or a Basque of French Navarre, to be brought into the current of the ideas and feelings of a highly civilized and cultivated people – to be a member of the French nationality, admitted on equal terms to all privileges of French citizenship, sharing the advantages of French protection, and the dignity and prestige of French power – than to sulk on his own rocks, the half-savage relic of past times, revolving in his own little mental orbit, without participation or interest in the general movement of the world. The same remark applies to the Welshman or the Scottish Highlander, as members of the British nation.” (Mill, 1991: 431)

The reason why the model of assimilation was abandoned is that it rests on the premise most of us find unacceptable today: the premise that there are cultures which are, in all their aspects, superior to some other cultures so that it is not only just, but even rational for members of such inferior cultures to want to be assimilated into a superior one.

The second model is that of neutrality and it draws on post-Reformation toleration model which introduced the idea that the state should be indifferent to religious beliefs and practices of worship of their citizens as long as those practices do not directly violate the rights of other citizens and endanger the security of the state. In the same vein, neutrality model argues that the state should be neutral towards different conceptions of the good their citizens hold by providing the wide framework within which citizens are free to pursue their own understanding of the good life. This framework is established by granting equal rights to all citizens, irrespective of their gender, race, ethnicity, religion or cultural identity. Ronald Dworkin

summarized this position in the following way: “Government must be neutral in ethics in the following sense. It must not forbid or reward any private activity on the ground that one substantive set of ethical values, one set of opinions about the best way to lead a life, is superior or inferior to others.” (Dworkin, 1990: 228)

The difference between this model and the model of assimilation is obvious: a state that respects the principle of neutrality will ensure a wide a realm of personal liberty for all its citizens within which they can pursue their conceptions of good without trying to impose any specific conception of good on them. This, of course, includes those conceptions of good which are, in most part, determined by one’s belonging to a specific cultural group. Liberal neutral state does not require of its citizens to abandon their cultural beliefs and practices as a way of assimilating into a cultural life of the majority. The only legitimate ban a neutral state can impose on different cultural practices is when such practices directly violate the rights of other citizens.

The neutrality model has been criticized on many different levels (see Mulhall and Swift, 1992), but the main complaint from the perspective that interests us the most – the question of cultural identity – is that liberal state only wears the mask of neutrality for it is actually not neutral between different conceptions of good or different cultures in a way that Dworkin suggests. There are two points from which we can question the neutrality ideal of a liberal state in the context of cultural recognition debate. First, there is an issue of different burdens that specific laws and public policies put on members of different cultural groups. The example often used in the multiculturalism literature is that of Sikhs who are unable to comply with a law that instructs all motorbike drivers to wear crash helmets without violating a duty of wearing turbans as prescribed by their own religion. Second point is more dramatic because it doesn’t only question the culturally non-neutral consequences of specific laws and policies, but argues that liberal state is not neutral at all because it often proscribes what their citizens can wear (the burqua or turban debate), how they can prepare their food (the debate about *halal* or *kosher* meat), how they can burry their dead (the issue of Hindu’s burning their dead on funeral pyres), who they can marry (the issue of homosexual or polygamous marriages), when they can get days off for the holidays (Christmas being national holiday, unlike other religious

holidays), what their children must learn in schools (such as *Mozert v. Hawkins* case) and how long their education must be (the debate on Amish children such as *Wisconsin v. Yoder*), what formal languages they should use (the debate on bilingual schools or languages used by local governments), etc.

This is a crucial point because often the critics of multiculturalism, such as Brian Barry (2001), assume that only minority groups make political claims on the basis of culture. But it is, in most cases, the liberal state that has demands towards its citizens. These demands are usually not, as in case of Ms. Silmi, based on invoking the preservation of majority's culture. Rather they bring into play secularism or modern science or national unity or nature or universal values, but from the perspective of minority groups they are not any less culturally embedded than their own demands. As Charles Taylor put it: "liberalism is also a fighting creed" (Taylor, 1994: 62). This suggests that constructivist model of describing how cultural identities are formed and formulated is much more convincing than the Herderian model that disregards the dynamic process in large part defined by the demands that different groups have towards each other. Wearing of burqa can provoke the debate of what it means to be French, just as banning of such practice can lead Muslim women to embrace burqa as an important part of their identity.

4. Cultural Identity and Political Ethics Revisited

What are the implications of this for Gilbert's line of argument? Gilbert's own understanding of cultural identity seems to fall into a constructivist camp which becomes clear when he concludes, agreeing with Chandran Kukathas, that cultural identity is "inescapably political" (Gilbert, 2010: 59). In chapter four he introduces Berlin's metaphors (filtered by David Miller) of *crooked timber* and *bent twig* to illustrate two different approaches to understanding cultural identity. Crooked timber approach corresponds to Herderian-essentialist view where cultural identity is given and every individual is already born into clearly formed and unique culture which, in large part, will determine his future actions. The bent twig approach follows the constructivist view by suggesting that person's cultural identity is mainly

formed as a response to how others perceive it and therefore, it is much more hybrid and dynamic than a true Herderian would allow.

Gilbert, I believe, is right in rejecting the crooked timber approach and embracing a bent twig theory as a much more plausible account on how cultural identities are actually formed. As the metaphor of bent twig – which when released, lashes back - suggests, cultural groups primarily formulate their political claims as a response to a perceived threat to a specific aspect of their culture. It is, as I've mentioned before, a dynamic and constructive process because collective cultural identities emerge from such political responses to existing or assumed threats. Gilbert himself advocates this argument when, in chapter four of his book, he talks about different types of perceived threats to group's cultural self-understanding and effect these threats might have on such self-understanding. He is at his best when he gives a detailed account of how political claims of culture emerge and offers a classification of the “twig shapes in terms of the sort of wind that bends them... not in the terms of the sort of tree on which they grow” (*ibid.*, 69). This informative “bent twig typology” of cultural identities allows him to show that “there is no unitary notion of cultural... identity” but only that there are different “responses to different sort of circumstances that go by the same name only because they are used in a similar way politically, not because they express some deep feature that all those who claim a cultural identity possess” (*ibid.*, 70). Types of identity Gilbert talk about are: identity as standing, identity as centre, identity as face, identity as affiliation, identity as home, identity as mission and identity as label. What is common to all these different types of identity is that there is nothing Herderian or essentialist about them because they are “essentially political concepts deployed to support political claims” (*ibid.*, 92).

I want to argue that Gilbert is right when he concludes that, as far as collective cultural identity goes, “what cultural content as identity has – value, language, history or whatever – is determined by purely political considerations and these are those that weight with prospective groups members” (*ibid.*, 64). However, I disagree with the conclusion he draws from this: “there seems to be no sound ethical grounding for any particular sort of cultural identity” (*ibid.*). It might be true that “no particular cultural component of identity seems ethically privileged” (*ibid.*) if we look at each of

these components separately, but once we take political context into an equation, these components can gain strong “ethical grounding”. Let me explain what I mean by political context and strong ethical grounding. Take an example of, what Amy Gutmann called, ascriptive markers (Gutmann, 2003) such as color of one’s skin or one’s sexual orientation. Taken by themselves, they don’t have any kind of ethical grounding: a person would not be able to make any kind of coherent ethical claims based solely on the fact that the color of her skin is black or that she is a homosexual. However, once such a person becomes discriminated against due to her race or sexual orientation, these markers become a valid basis for both moral and political claims. This is exactly what bent twig theory suggests: a fact that a person is under threat because of some feature of her personal identity gives moral weight to her demand that her identity receives a public recognition. Gilbert, it seems, does not follow up on this suggestion.

He uses “bent twig typology” to show us that there is nothing Herderian/essentialist about collective cultural identity, but that it is, just like one’s national identity, a mere political construct. This explains the “the tactics of identity-group activist... they seek to make a certain identity important to its prospective members so that they rally to the cause. They may sometimes do so by trying to demonstrate that it is already important for them, when their consequent self-identification will have a character of discovery” (Gilbert, 2010: 63). I agree with this part, but I disagree with Gilbert that what follows from this is that, if we accept the constructivist view of cultural identity, invoking cultural identity in political debates becomes deeply incoherent. What makes the claims of culture in politics valid? It seems that for Gilbert validity of such claims rests on the validity of essentialist understanding of the nature of cultural identity. Then, if our goal is to discredit the very idea of collective cultural identity, it would be enough, as Gilbert successfully does, to show that essentialist model is false by demonstrating that the constructivist model offers a much more convincing take on the nature of collective cultural identity. I think that Gilbert’s argument has a much more limited reach: it shows that tactics of identity-groups activist that rely on essentialist understanding of culture is misleading, but it has little to say to those activist (and theorists) that use

cultural claims that rely on constructivist, rather than essentialist understanding of cultural identity.

I will try to make my case stronger by going back to Gilbert's two core arguments against the politics of identity. I want to argue that constructivist model explains why making political claims on the basis of culture makes sense a) even if one's cultural group is not the same as one's community, b) cultural features of a group are not all encompassing or are too wide and c) the cultural features in question have no deep character, but are rather mere surface features. When it comes to a) the central question is: is it a necessary condition that membership of person's cultural group be identically to that of person's cultural community for cultural identity claims to be valid? It does if we insist on Herderian/essentialist view of culture. On the other hand, the constructivist model and bent twig theory allows us to look at things differently: collective demands that invoke the preservation of culture do not have to come from those who are members of the same community (in a way that Gilbert uses the term) if those who share certain cultural features start perceiving themselves as being under threat. Again, we can use the example of ascriptive markers: a black or a gay person can never be a member of all-encompassing black or gay community because there are no such all-encompassing communities. Nevertheless, the fact that black people or homosexuals can point to a long history of abuse and discrimination against them, makes it valid for them to talk about collective group identity and for their representatives or spokespersons to make political claims in the name of such a group. For such claims to be coherent, it is not necessary that all blacks or homosexuals experienced these abuses or discriminations, nor is it necessary that all of them give direct consent or even agree with activists who speak in their name. Of course, it is possible to say, as more moderate black in the US said about Malcolm X or more radical blacks said about Martin Luther King, that the solutions these activists are advocate are not their solutions. This does not, however, mean that political claims that invoke collective black identity are, from ethical point of view, incoherent or dubious. The same line of argument can be applied to collective cultural identity. If, for example, a liberal state wants to ban the use of *kosher* meat on the basis of unnecessary cruelty to animals and Jewish religious leaders respond that such a ban is endangering Jewish cultural tradition, this

response can be considered valid, although it is obvious that they speak in the name of a collective group which is not in any way a close-knit community, i.e. “a group of people actually leading a common life”.

What about b) when activists defend cultural features or practices as important elements of their group’s identity, although these features and practices are not shared by all the members of that group? Let us again use the example of ban on *kosher* meat. Not all Jewish people find it necessary to eat *kosher* meat and therefore do not think that it is in any way a relevant part of their Jewish identity. Nevertheless, rabbis could still coherently argue that this ban is endangering Jewish cultural identity, even if they themselves accept that one can be a Jew without eating only *kosher* food. This, of course, does not imply that their demands have to be accepted, because the wider society or the state legislature can still rank the ban on animal cruelty higher than respect of cultural practice of a specific group. All it implies is that such demands are not *a priori* unfounded.

Finally, there is c) an issue if, as Gilbert argues, “a cultural identity must be theorized as something deep for the ethical demand to carry over to it”. There are two possible responses to this argument. First, many of cultural identity claims in multicultural discourse do actually have a deep character: if a person believes that wearing a burqua is a part of her duty toward God, rather than just a piece of clothing that distinguishes her from the non-believers or more moderate Muslims, then we can take this feature is not just a surface, but a deep part of her identity. Second, and more important from constructivist and bent theory approach, even if something is nothing more than a surface part of someone’s cultural identity, it can still offer a basis for a valid ethical demand. When a liberal state bans or puts restrictions on certain cultural practices of minorities it would seem deeply unjust if the only way a minority members could try to resist such ban or restrictions is if they can prove that practices in question are a deep part of their cultural identity. Liberal principles of justice suggest that a burden of arguing why a certain practice should be regulated by the state falls on the shoulders of the state itself. Otherwise, the state could legitimately ban any practice that, for the individuals involved in such a practice, has nothing more than just a surface meaning.

In conclusion, rather than abandoning the whole idea of using cultural identity as a coherent concept in our political discourse, which is what Gilbert advocates, I would suggest that political philosophers should put their efforts in providing a normative framework which would allow us to determine which political claims based on culture should be taken seriously and which ones should be dismissed. This paper only hints at how we could go about doing this – by identifying if the threat to cultural identity of a group is real or fabricated, by rejecting Herderian/essentialist as a valid basis for political claims, by accepting the constructivist and ever changing nature of collective identities, by acknowledging that we are better off if some cultural practices, even when they are an important part of one’s culture, be abandoned, by recognizing that sometimes we have to make a tragic choice between valid competing political claims of different cultural groups, by not equating cultural groups with cultural communities – because its main goal was to argue, *pace* Gilbert, that the idea of invoking collective cultural identity in politics become meaningful once we start thinking about cultural identity in a constructivist way as an act of political response.

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