



The Cinco de Mayo Flag Flap: Rights, Power, and Identity

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In the process and dynamic of using a flag to convey meaning, context is crucial. To illustrate this point by paraphrasing a common vexillological example, the same piece of fabric that might ably function as a verdant tablecloth at a St. Patrick's Day party in South Boston could have served atop a flagpole in Tripoli in the not-so-distant past as a national banner. Or consider the classic scene in the film *Modern Times* (1936) when Charlie Chaplin's Little Tramp spies a red cautionary banner that has fallen off an overloaded lumber truck and into the street: the tramp picks up the flag, waves it and yells to get the driver's attention, but then is suddenly swept up in a Socialist demonstration that has come down the thoroughfare behind him. Inevitably, the police attack the radicals, and the innocent bewildered Tramp, still holding the red banner, is bonked on the head and carted off to jail.¹ Here we see not only is context crucial, but intentions can be misinterpreted, and some labeling based on flag association or flag usage can be swift and angry.

Vexillology is always looking to develop methodologies that might better serve it in its analysis and evaluation of what flags mean and how they function in societies. In reviewing political struggles for power and control within the United States, as a two-party system has dominated our political discourse since the election of Thomas Jefferson to the presidency in 1800, it has been common practice for over a century to compare and contrast how opposing political parties go about using the national flag as a symbol to win others over to their political position. I guest-edited an issue of the *Flag Bulletin* entitled "Capture the Flag" way back in 1988 that evaluated such a procedure in the George H. W. Bush vs. Michael Dukakis presidential race, and there are many other examples one could find before and since then that illustrate this approach at work.²

I would like to suggest a modification of that procedure—still essentially setting up in opposition a pair of forces battling for hegemonic influence and control, but adopting a conceptual system of analysis allowing for a deeper and important critical insight: these two main streams of thought engaged in struggle over American patriotic symbols can and do often overlap, at times they can both be complexly intertwined in the reactions and responses of individuals and institutional forces, and neither is entirely or inevitably the expression of any one political party—though in any particular historical incident or flag event, one political party might and probably will draw upon one of these two streams of thought more than will the others.

For establishing the two conceptual categories used for analysis here, I look to earlier work of political scientists and historians that can be usefully appropriated. In 2004, British political scientist Anatol Lieven published *America Right or Wrong: An Anatomy of American Nationalism* with Oxford Press. Citing Erik Erikson's earlier insight that "every national character is constructed out of polarities",³ Lieven calls for a focus on "The Two Souls of American Nationalism".⁴ The first is based on "the American Creed...the set of great democratic, legal and individualistic beliefs and principles on which the American state and constitution is founded." The second he sees as an antithesis to this "civic nationalism"; it draws upon ethnoreligious roots of distinctiveness and incorporates aspects of Nativism, the values and tradition of the Old South, the tenets and ideology of Protestantism as a cultural force, and a range of other varied legacies and heritages.⁵

Historians have followed Lieven's lead in considering flag usage within such an analytical framework. In her 2009 book *Capture the Flag*, (which was reviewed by Ted Kaye in the spring 2010 issue of *NAVA News*) Woden Teachout essentially appropriates such a dichotomy, although in her nomenclature she distinguishes the two categories as "humanitarian patriotism" and "nationalist patriotism".⁶ In an illuminating European work, first published in Italian in 2003 and only available in English translation beginning in 2010, Professor Arnoldo Testi, yet again employing that ever-popular title *Capture the Flag*, brings a contemporary European perspective to the cultural history of national flag usage in the United States. In his case the distinguishing names for the two conceptual categories in which flag meaning circulates and co-exists are as "totem of freedom" and "totem of empire".⁷

To integrate what we may learn from these three scholars, I would suggest that in the first category, we find the American Creed conveyed through

humanitarian patriotic rituals and practices in which the U.S. flag is most emphatically a totem for freedom, while in the second, we find someone's version of a "real America" conveyed through nationalistic patriotic rituals and practices in which the U.S. flag is most emphatically a totem for empire (real or imagined). It is quite possible and indeed common that elements of both are intertwined, to varying degrees, in many individuals' interpretations of the flag, no matter if they consider it in distinctive and specific interactions or identifications or if they are reflecting on it as a more general abstract symbol. In adapting this framework to study flag usage, we can help promote greater vexillological awareness of the inter-relationships between flags and three key categories: rights, power, and identity.

For example, let us use this conceptual framework to analyze a flag event that occurred in May 2010 in Morgan Hill, California, an event that garnered national media attention and probably entered several water cooler discussions (or their online Facebook-thread equivalent) for a few days, before the ever-ravenous contemporary cable news media focus moved on to seek nourishment and ratings elsewhere. This incident can be called "The Cinco de Mayo Flag Flap of 2010". Much of the conservative talk radio and right wing echo chamber fixated on this flag event as an attack on humanitarian patriotism and the American Creed, and at the sound-bite level of analysis it could certainly come across that way—but by probing more deeply one can see that the flag meanings and uses were complex, and the symbol itself could vacillate in poignant and powerful ways into what Teachout calls nationalist patriotism, evoking a vision that can and does conflict with basic elements within the American Creed philosophy.

Morgan Hill is a bedroom suburb of San Jose, located 24 miles from downtown San Jose in Santa Clara County. It has a population of 37,000 and has experienced transition from a city with a small-town feel and acute sensibility of the agriculture and ranches around it to a locale with increasingly metropolitan ties, representing the outer edge of Silicon Valley's expansion toward Gilroy. Live Oak High School, one of three high schools in the district, has a student population of approximately 1,300, drawing from Morgan Hill, San Martin, south San Jose, and surrounding unincorporated areas. The school reflects the ethnic, cultural, and class diversity of this region—40% of the students are Hispanic.

Here is the conservative sound-bite summary of what happened at Live Oak High School on 5 May 2010, and the gist of what the majority of

Americans who heard about this incident learned from it:

On 5 May, at Live Oak High School in California, a group of five young patriotic Americans wore U.S. flag shirts and apparel to school. Because Cinco de Mayo is a Mexican holiday, assistant principal Miguel Rodriguez told them they were being disrespectful and had to either turn their shirts inside out or go home and be suspended. The students refused to put their shirts on inside out; they believed such action would disrespect the flag. Their parents were called in and the students were sent home with them, although several of the parents expressed their anger with the situation. The parents complained to the school district, wanting some redress and action taken to protect their children's First Amendment rights to honor the American flag.⁸

The conveyance of this information in the sound bites was usually with a tone of shock or anger on the part of the reporter, the summary then followed by some commentary, encouraging feedback on whether the school's ruling is acceptable, thoughts on what caused the problem, and suggestions as to what should be done about it. The responses available as comments online are generally very supportive of the determined students, praising them for sticking to their convictions, while caustic in their appraisal of California culture, derisive of "liberal" schools, angry and fearful of the presence of "Mexican" culture and people in the United States, and personal and specific in their attacks on the Latino administrator involved. A sad number express loathing and hate for Mexicans and/or Latinos as a group.⁹

Most of the basic facts in the sound-bite summary are correct, although at no time were the five students suspended because of their dress—they were told they would be sent home for the day without punishment.¹⁰ Also, it is worth emphasizing that although the vice-principal who dealt with the students is Latino, he was following the directive of the principal, who is not. There is clearly a First Amendment issue here: as Dr. Wesley Smith, the superintendent of the school district, made clear in a press release a few hours later that same afternoon. He agreed that the school administration had handled the situation regrettably and incorrectly—at no time should the free speech rights of the students have been restricted. The school district explained that the ruling, deemed inappropriate in hindsight, had been made with concern for public safety and had never been intended as a comment on patriotism.¹¹ However, complex interweavings of both humanitarian and nationalistic patriotism and current unease in American culture over issues of the economy, immigration,

and international politics combined to make this schoolyard incident national news for three or four days, and led to death threats, thriving Facebook fan clubs for the emergent heroes (dubbed “the Morgan Hill Five”), conflict bubbling over into city streets, and a subsequent town meeting to allow members of the community to air grievances then try to find some common ground and move forward. Flushing out the context suggests that the main players and entire student body in this paradigm drama, some eagerly, some uneasily, and all unavoidably, became pawns in media portrayals and political agendas designed and directed by motivators from far beyond their town.

Cinco de Mayo as a holiday has been celebrated by Mexican-Americans in California since before World War II.¹² It honors the victory of Mexican forces over the French in the Battle of Puebla on 5 May (“cinco de Mayo”) 1862. San Jose had hosted large celebrations for decades, and one of the traditions that had evolved is for Mexican-Americans to ride around in their cars, waving Mexican flags, encouraging others to honk their horns or cheer in salute to that banner. I have noticed anecdotally that the majority of celebrants who use the Mexican flag in this sort of demonstrative manner on Cinco de Mayo are generally adolescent and young adult males, who might well do the same thing with their sports team flag if the Raiders just won a significant game. It is a flying of the colors as a celebratory sign of victory, but there is also a level of macho assertive demonstration therein as well—the male peacock doing a movement to impress the hens. In the 1980s Cinco de Mayo was appropriated by national beer distributors as an ethnic holiday on which all, Hispanic and non-Hispanic alike, were encouraged to go out and drink—much as over time St. Patrick’s Day for the Irish had evolved into a celebration for all Americans.¹³ Mexican flags, or parsings of Mexican flags, are prominent in Cinco de Mayo advertisements and bar decorations during this seasonal festivity, so the display of Mexican flags on Cinco de Mayo is very common in Santa Clara County, California.

Live Oak High School has a ban on bandanas as school attire, which can be attributed to a more general ban on the wearing of gang colors. To those who have not seen it, the 1988 film *Colors* is useful for the significance it correctly conveys for the use of specific colors to identify allegiance to a particular gang, and it is a sad but true fact that gang culture in California has not abated but has in fact grown in resilience, power, and interconnections in the generation since that film was made.¹⁴ Young people attending Live Oak High School would understand a culture in which a young man’s masculine identity was in



Figure 1. The Live Oak High School “Patriots” (left to right): Daniel Galli, Austin Carvalho, Dominic Machel, Matthew Dariano. Not pictured: Clayton Howard.

part represented by his colors, whether his school colors on a team uniform or gang colors on a shirt or bandana. On Cinco de Mayo, for young Mexican and some Mexican-American students, this could certainly hold true for a representation of the Mexican flag.

What is left out of most versions of the Live Oak incident in 2010 is what happened there the year before, on Cinco de Mayo 2009. That year some Latino students on campus were carrying around and waving a Mexican flag, in the tradition of celebratory young men in cars. They had received permission from the administration to do so, according to a student who was on campus at the time, and she observed the vice-principal quietly following around behind them, some distance back, to make sure that no exuberance got out of hand. The Latino students were then confronted in a challenging manner by a group of students carrying a large American flag poster, asserting that true Americans must be anti-Mexico. Harsh words were exchanged, tensions ran high, and a correctional officer assigned to the campus had to step in to avert the outbreak of violence. Though no fisticuffs ensued, the incident was not forgotten.¹⁵

The following year, hoping to avoid more of the same sort of problem, the school’s principal issued a declaration to all students in a general announcement on 4 May: there would be no waving of any flags brought from home, including on personal clothing, at the Cinco de Mayo cultural celebration for the entire school on 5 May. He decided to deal with the potential of a problem with this brandishing of the colors by volatile young men by instituting a ban on flags and flag apparel for the day.¹⁶ As it turned out, this was not a wise choice.

Given this established context, on 5 May 2010, when Dominic Machel, Austin Carvalho, Matthew Dariano, Daniel Galli, and Clayton Howard, the group of five student-athlete buddies (Figure 1) showed up decked out in American flag motif clothing, they knew exactly what they were doing.

The wearing of the flag in this case was intended as an in-your-face challenge to the Mexican-American students. The flag was certainly not supposed to represent an inclusive vision of America, instead it was supposed to convey that anyone who raised a Mexican flag on Cinco de Mayo was not a true American. It was also a blatant disregard of the principal's directive. Austin Carvalho, when interviewed on Fox News (on a network known for its right-wing leanings), made his wardrobe selection for the day seem quite casual and happenstance: "I wear it often; I like the shirt," he said.¹⁷ However, he and his friends clearly were looking to draw attention and pick a fight, if not with the Latino students, then with the school's administration.

As some of the students admitted on Fox News, some taunts were exchanged with Latino students before the principal took action in 2010, although from the perspective of Carvalho they were "nothing much—just some taunts".¹⁸ One wonders what language was actually used. According to administration officials, Mexican-American students who had complied with the requirements to forgo any flag apparel pointed out that although they were obeying the rules, these five rebels were not, and in an openly defiant manner. Thus, it was inevitable that a confrontation of some sort would eventually come with such a direct challenge to the principal's directive on this issue, as constitutionally improper as it was or not. However, it should also be noted, even when the students were called into the principal's office after the taunting exchanges and tensions they instigated, they were never suspended—they were simply given the choice to either turn their shirts inside out and then return to the school's cultural events of the day or to go home with no discipline imposed. It is also interesting that two of the five wore red, white, and blue bandanas, an item of apparel banned at the school in any color, because of the gang connections it evokes. When the vice-principal first approached the group during their outdoor brunch break, he told the two of them to remove their bandanas, and they complied. He then asked the two of the five wearing complete US flags on their shirts to come to the office, and then, a few minutes later after some deliberation, included the students with parsed flag imagery on their clothing as well.¹⁹ As Danny Galli wore flag bathing suit shorts in a style visually different from his flag shirt,²⁰ it seemed clear at least some of the five students were all about the display of the U.S. flag in an in-your-face manner.

I understand and respect the decision of some of the students, when called into the principal's office, to honor the national flag by not turning their shirts inside out. And actually, once the parents arrived and had discussed the situa-

tion with the administrators, one of the parents suggested that since the principal had asked the students not to wear flags to school, technically, those students wearing shirts with parsed flag symbols rather than full U.S. flags were not wearing flags and should be allowed to go back to class. Principal Boden conceded on this point of semiotical interpretation, and Austin, Matthew, and Clayton were then given permission to return to class, and did so. Later in the day, however, Matthew's mother rethought what might be gained from a more direct challenge to the principal, and called her son on his cell phone, instructing him to get up, leave school, and come home immediately.²¹

I find it disingenuous on the part of the students, though, that as they transformed into media celebrities, their articulated purpose for wearing flags became totally unconnected to any racial, ethnic, or class challenges on their part. Dominic Maciel innocently asserted, "We didn't mean anything by it. We weren't trying to start anything, nothing like that. . . Just showing my American pride."²² And their parents furthered this claim of faultless intent by using arguments based on faulty logic: Julie Fagerstrom, Dominic's mother, explained that the boys did this all together to express their individuality, and Mrs. Dariano argued Matthew couldn't possibly be intending to offend anyone as he was partly of Mexican descent.²³

To help feed and grow the story, the night of 6 May Fox News emphasized that the students had been forced to watch Mexican dance performances at the school, and that many Latino students had worn shirts of red, or white, or green, or some combination of those colors, on 5 May. But wearing a shirt in one of the colors of a flag is not the same thing as wearing a shirt with an emblem of a flag or a parsed flag. On 6 May Fox News found and televised a Latino student who admitted he had worn a Mexican flag belt buckle the day before, and on camera, the student demonstrated how if he pulled up his long shirt which he wore untucked, one could see that, indeed, there was a Mexican flag on his buckle hidden away underneath. He told the reporter he felt the five students should indeed have been allowed to wear the U.S. flag if they so wished.²⁴ The Fox News dichotomy set up here suggested the school was intentionally pro-Mexican and therefore anti-American in enforcing its rules, and by extension for the alarmed Nativist viewers, in its pedagogy. As the quintet of football players became "the Morgan Hill Five" or the "Live Oak High School Patriots" to conservative Americans, they quickly represented young warriors standing up to what the conservatives saw as a dire challenge from Mexican immigration, stoking fears that

English as a dominant language and Anglo cultural traditions in the country are very much under attack.

The calls of vitriol and denunciation of this administrative decision poured in. Before the server crashed from overload, the principal had received 5,500 e-mails; the vice-principal, who was repeatedly identified by name and as a Latino by Fox News, 6,200 e-mails; and the school district superintendent 1,900 e-mails. Most expressed outrage at the disrespect for the American flag. There were plenty of very angry phone calls, including one from the superintendent's own mother who castigated her son for the abuse the now-hero boys had supposedly suffered. The vice-principal received death threats.²⁵ It turns out there are other schools named Live Oak in California, one in Santa Cruz County and one in Sutter County. These schools got angry and abusive phone calls as well, and the one in Sutter County also received a bomb threat and a man warning he would come in and shoot up the school.²⁶ Back in Santa Clara County, the correct location for the Live Oak School in question, the administration quickly issued its explanatory statement the afternoon of 5 May, and a public apology the next day, but these press releases received much less attention than the interviews with various combinations of the boys and their parents that occurred on some of the major news networks, on *Good Morning America*, on conservative talk radio, and most emphatically for the next few days, on Fox News. The administration reported that it had declined interviews with Rush Limbaugh and *Good Morning America*. Fox News called the superintendent and offered him a free limousine ride all the way to San Francisco, where they said he could be broadcast nationally to answer questions they had about the incident; he declined.²⁷

The morning of 6 May a media circus had camped out in front of the school. Three TV trucks were joined by Tea Party representatives who had come down from San Jose eager to seize on the incident, possibly get some air time, and feed anti-Latino immigration sentiment. John Massina, of San Jose, arrived dressed as Uncle Sam, and exhorted all passersby to demand the vice-principal be fired.²⁸ Several activists waved American flags and shouted angry challenges to Latino students waiting to enter the school. Austin Carvalho, eager for more media attention, showed up beaming, wearing the flag shirt he'd worn the day before, while Danny Galli invited a TV news team to watch him dress in flag apparel at home and then follow him to school to see if anyone would dare challenge him and thus insult Old Glory. The TV camera team happily complied. Along with the cameras

and American flag wavers, more police were sent to monitor activities on the school campus that day.²⁹

Other students came to Live Oak that morning a bit overwhelmed at the quick national attention and focus on their school, with varying degrees of concern about how they were being portrayed. A group of students, many of them Latino, were troubled and offended by how negatively they felt the media had represented Vice-Principal Rodriguez and themselves. One student tried to convey to the media cameras her perspective: “I am not like, um, embarrassed to wear the American flag—no, I would just like for them not to do it in the way they did it.”³⁰ One of the anti-Mexican hecklers who showed up in front of the school that day happened to be an adult male in a wheelchair, so he rolled up close to a group of young Mexican-Americans, snatched away the one Mexican flag a student near him was holding, then spun around and confronted them mockingly. He started waving it all balled up in their faces, daring them to try and get it. The students stepped back a bit, conflicted in their social training of respect for the disabled and those more advanced in years while outraged at the quite clear intent of the insult. Then one sprightly student jumped forward and in a swift move nimbly grabbed the flag back without touching the wheelchair-bound man. Exultant in this dramatic shift of the symbol back to its original owners, the students chanted and cheered down on the white man their pride in who they were, his hate notwithstanding.³¹



Figure 2. Squabble with the man in the wheelchair.



Figure 3. Latino students rally.



Figure 4. Latino students walk out of school, march on city hall.

During the middle of that school day, 60–70 Latino students staged a walkout to demonstrate their displeasure at the national elevation of the five athletes to hero status. As they marched downtown to bring their concerns before the mayor in City Hall, the police accompanied them, trying to keep back those fans of the Morgan Hill Five who were angered by the sight of these Latino students walking down the street waving some Mexican flags, chanting “we deserve respect”.³² The march engendered its share of derisive hecklers, and like the school grounds, served as a lightning rod drawing white supremacists eager to fight.

A YouTube video captured another flag confrontation during that march. A group of tough young white men in a gray pickup truck pulled up close to the marching students, clearly intent on making a racial issue of the Cinco de Mayo Flag Flap, and one man started taunting three young Latino women on the march, insulting them while he laughed and waved an American flag out the window at them. The truck stopped, and the flag waved teasingly out the window at the women as he made suggestions about them. A strong young Latino male in a T-shirt, his muscles rippling, came up to the truck and with a wave of his hand sent the flag flying down the street. He faced the truck undeterred, putting himself in front of the women. The truck then pulled over and stopped, and there were at least three or four white men in the expanded truck swearing and challenging the lone Latino to fight. He stood his ground and assumed a fighting stance, ready to take them on. As they emerged from the truck, a Mexican-American woman rushed between them, yelling “you’re doing it wrong, you’re doing it wrong”, pushing the young Latino back to avoid an altercation. The men from the truck seemed glad not to have to fight him, and shifted their priority to retrieving the American flag lying a few yards



Figure 5. Encounters with white supremacists waving American flags.

back on the pavement. The placating woman then bravely turned and ran back to shield the marchers from the fight-baiters, who as they advanced were laughing, calling the marchers vile names, and telling them to go back to Mexico, one of their group smiling as he filmed their actions. One of these tall white men swore derisively and struck a short young Latino male on the head with the flag after he picked it up, leaning forward and beckoning him to dare to fight. The teen responded by going into a fighting stance, but he was surrounded by marching females who pulled him back. A policeman had by then arrived. So the laughing taunters slowly returned to the truck, while the peacemaking Mexican-American woman for a third time put herself as a shield between them and the marchers, instructing the marchers to “just let them go” and repeating proudly, “We are Mexican-Americans, we are Mexican-Americans.” Once back in the truck a pair of the white men waved two American flags out the window, while all of them shouted abuse such as “Get out of America!”, “You want to start a riot?”, and “You don’t belong here.” The flag-waver in the front seat told the person filming them, “This makes me proud” then yelled at a Latino boy of perhaps 15, “Go back to your own country.” “This is my country!” the boy proudly asserted. “No it isn’t,” retorted the flag waver, shaking the flag in his face. “Quit f---ing up America and go back to Mexico.” As the truck pulled away the Latino shouted, “Yeah? Well it’s a free country and I can stay here whether you like it or not.”³³

On a news website, a San Francisco TV reporter had briefly described this march and shared some video of the incident with the truck, editing it and summarizing it as if the Mexican-American youth had just inexplicably attacked the flag of the United States, implicitly to communicate anti-Americanism.³⁴ In the comments section below, the youth actually involved had found this webpage and written a response in his own words, which I share here to give his version of what was occurring and what his intentions were:

Ok so listien thats me in the pic. we r nt mad cuz those kids wore the usa flag, it wz the intent behind it. they didnt wear it all 2gether on any other day but decided they wanted 2 make watevr there point wz on cinco d mayo. i myslf iam mexican american n dnt speak a wrd of spanish. its nt

about race n its nt about color. if u think that ur definitely js as ignorant and immature as those 5 kids. its about respectn eachother. n ppl act lik mexicans arnt fightn in the war either. it cld of been a mexican flag i knocked down i didnt care, wat pissd me off wz wat the guys in the truck were sayn 2 my gf. So basically iam here 2 say stop being reactionary lik that 1 guy said n stop letn the media n liars feed ur knowledge. its nt good 4 u³⁵

One of the Tea Partiers was upset by the police presence throughout the march. He complained “they weren’t protecting the right people.”³⁶ Some students on the march shouted vulgarities back at the hecklers, and one young Latino provocateur, his face covered by a bandana, pulled a small American flag off a lamppost and tried to set it on fire. When he failed to succeed in doing so, a heckler videotaping him ridiculed him, so he gazed straight into the camera and shoved the flag forward, upside down, in the recognized sign of distress, then turned and resumed the march.³⁷

When the Latino students got to City Hall they held a rally around the flagpole, under the Stars and Stripes. They waved their own Mexican flag and said that in America all people need to be treated as equals and they deserved that too, but they knew a lot of people say they don’t deserve it because of their Mexican heritage. A delegation was sent in to see the city manager. He heard their grievances, and diplomatically told them the city would work to protect everyone’s First Amendment rights while also respecting the area’s cultural diversity. Appeased that they had been heard and acknowledged, the Latino students marched back to school, where the principal gave them one hour detention together, and used the time to let them share their feelings about the experience with him. The student marchers then asked to return to their regular class schedules to complete the day, and the principal approved.³⁸ So ended 6 May 2010, at Live Oak High School.

That night, over the text-messaging system that young people use to connect with one another quickly, some students in the school devised a symbolic way to convey that they wanted to put all the conflict and divisiveness behind them, get out of the media spotlight, and return to learning. This group, who felt the extreme reactions they had been witnessing from all sides were counter-productive, came up with a plan to wear purple and white the next day, colors that they believed symbolized peace and harmony. Purple is also an interesting choice here because it is a color rarely found on a flag, and getting beyond classifying people with flags when the purpose is to build animosity was part

of the point they were trying to make. That lunch hour, the purple-and-white collective organized a peaceful sit-in around the flagpole in the school courtyard. Hundreds of students attended.³⁹ The message was simple, and in the tradition of Rodney King, it was an appeal for everyone to demonstrate mutual respect and get along. At the high point of the improvised ceremony, a young woman walked to the center of the courtyard, raised two flags in the air, one of Mexico and one of the United States, and waved them, turning herself in a full circle as she encouraged the crowd “Let’s show them we can change; let’s show them we can be better people.” As a freshman girl garbed in purple, with purple peace signs painted on her face and arms, later explained: “They had an American flag and a Mexican flag. They put them together and said ‘we should stop this.’” Following this symbolic conjoining, the students gathered cheered their approval—then one jokester from the back, in the momentary pause that followed, called out, “and now is the time for streaking...everyone get naked!” He got a big laugh, and a relaxed mood followed.⁴⁰

After the ceremony, a delegation of the purple-and-white-clad students then approached the right-wing protesters and media trucks on the edge of campus, telling them it was time for them to leave, there was no conflict here, they as students were done with all this. Following this lunch hour ceremony, the students returned to their classes. They had a prom that weekend to prepare for!⁴¹

However, the Tea Party had other plans for that Saturday; they had begun arranging and promoting a weekend rally to honor the Live Oak Five in downtown Morgan Hill as soon as the story broke. This event was attended by Matthew Dariano, Daniel Galli, and Dominic Maciel, the three students and their parents who had already signed on to bring a lawsuit against the school, the vice-principal, and the principal. The boys posed for pictures and received congratulatory handshakes from many of their fans. Approximately 100 people attended the rally, which consisted of lots of waving of lots of American flags, raising of Tea Party protest signs to catch the attention of cars passing along the busy thoroughfare of Monterey Road, and patriotic hymns and songs blaring over a loudspeaker. A majority of the ralliers were out-of-towners who had come there specifically for the media event, and key goals were to get on the news and to elicit responses from passers-by. Sample signs included “I’m sorry if this flag offends you—Not Really!”, “Free the freedom of speech”, and “Secure our borders—support Arizona” (the adjoining state which had recently passed strong immigration-enforcement laws). One large Arizona flag waved amid the many U.S. flags, explicitly conveying an implicit connection that had



Figure 6. Tea Party Rally: downtown Morgan Hill, Saturday, 8 May 2010.

been an undertone in the entire Live Oak episode. Those in approval of the flag displays and protest honked their horns, and some with American flags passed by to wave their American flags out the vehicles' windows in solidarity, to great cheers. Some also passed by and waved Mexican flags out their vehicles' windows, and vulgarities were exchanged, with a popular response being "This is America—Go back to Mexico."⁴²

One interesting clash of civil religious symbols and interpretations of who gets to count as a "real" American occurred when a Latina woman drove by, looked at the Arizona flag and Tea Party ralliers, and gave them a thumbs-down sign. A protester shouted scornfully "do you have any papers?" The driver circled back and came to confront the crowd. She informed the hostile flag-wavers that her name was Monica Chávez Delgado, that she had attended Live Oak High School, was born and raised in California, was a college graduate who worked for the city of Morgan Hill as an analyst—and that her grandfather was Cesar Chávez. She took offense at the suggestion that Mexican-Americans should be asked for their papers and said she would never go to Arizona, and that if her home became so racist against other Americans she wouldn't want to live here either. There is no record in the press of how the person who asked to see her papers replied.⁴³

The Cinco de Mayo Flag Flap of 2010 went forward as a federal lawsuit, brought by the Dariano, Fagerstorm, and Jones families.⁴⁴ According to Peter Scheer of the First Amendment Coalition, since none of the boys received any

disciplinary action for their disobedience of the principal's requests and directives, and because the school apologized immediately, admitted First Amendment rights should never be compromised in this fashion, and agreed to never do it again, there was really no cause for a lawsuit. "Federal courts require that you only bring a lawsuit to resolve 'a case or controversy'. Since all sides agree the right to wear patriotic apparel is not to be violated, and there is no live dispute, there is no cause for a case."⁴⁵

Nevertheless, the parents demanded a more formal apology for what all the three boys had endured, as well as "nominal fees". Their Los Angeles-based attorney, William Becker, had made a national name for himself as a First Amendment rights lawyer by defending a sixth-grade girl from Merced, California, who was not allowed to wear to school a graphic anti-abortion T-shirt that depicted a growing fetus. His legal defense of the Morgan Hill Five was funded by the Thomas More Law Center of Ann Arbor, Michigan, which promotes itself as a "sword and shield for people of faith" to help Christians win "a cultural war" they see now occurring in America.⁴⁶

Did the Morgan Hill Five actively plan to throw a grenade in a cultural war, seeing the American flag as a totem of a white protestant Christian empire? Probably not. Did they start out with a zeal for defending First Amendment Rights, in the tradition of seeing the American flag as representative of humanitarian nationalism? I doubt that as well. Their original motive comes through, I think, in an offhand comment that Austin Carvalho made to *CBS News* during the midst of the controversy: "We aren't trying to start trouble. . . We're in America—can't we wear our own colors?"⁴⁷ He saw the American flag as the equivalent of gang colors for his group of sophomore football jocks, and the Mexican flag as the colors for young Latino males in his school, and a lot of this had to do with young male posturing mixed with typical adolescent defiance of authority. Many of the students at Live Oak High School interpreted the flag-related incidents there in 2009 and 2010 with this same attitude, and that is why some young Mexican-Americans who deeply honor the American flag and the Bill of Rights it represents (in part) could still see the way the Morgan Hill Five used the flag that day as intentional disrespect. And sadly, that is why some other young Mexican-Americans might have seen the same behavior and accepted the Tea Party assumption that the America that banner envisions is not an inclusive one that wants them—and therefore they feel little or diminished allegiance to it.

The flags of both nations took on a wide range of meanings and were seen to embody a wide range of beliefs during the Morgan Hill Cinco de Mayo Flag Flap. These included elements of humanitarian patriotism, elements of nationalistic patriotism, and perhaps most crucially elements of nationalistic patriotism masquerading as humanitarian patriotism. Flags can be used to encourage and incite a wide range of behaviors, and not all of them are always admirable. It might well be a patriot's prerogative to always demand honor due for the sacred symbol of his nation, but it is the vexillologist's responsibility to be vigilant in questioning how and why flags are used the way they are.

Postscript:

As the lawsuit worked its way through the system, both Principal Boden and Vice-Principal Rodriguez left Live Oak High School for other positions.⁴⁸ On 8 November 2011, the U.S. District Court for the Northern District of California, San Francisco Division, dismissed all charges against the community of Morgan Hill, ruling that "Live Oak [High School] has the right to restrict a student's free speech when it is likely to cause a substantial disruption."⁴⁹



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End Notes

1. See “Modern Times—The Flag Scene” as posted by kateeeeya on YouTube, 7 Jan. 2009. YouTube.com. Last accessed 26 August 2010. The original ideas for referencing the flag of Libya and the Little Tramp in this way both came from Dr. Whitney Smith.
2. See *Flag Bulletin* 27 (1988); for another more recent example, see Scot M. Guenter, “Culture Wars, Divided Nation—Battles for Semiotic Control of the American Flag in the Twenty-First Century” in *Colours of History: Flags and Banners of the World*. Vol. 2. Berlin: German Vexillological Society, 2009. 663–675.
3. Erikson quoted in Anatol Levin, *America Right or Wrong: An Anatomy of American Nationalism* (New York: Oxford University Press) 5.
4. Levin 4.
5. Levin 5.
6. Woden Teachout, *Capture the Flag: A Political History of American Patriotism* (Basic Books, 2009) 5–8.
7. Arnaldo Testi, *Capture the Flag: The Stars and Stripes in American History*. Trans. by Noor Giovanni Mazhar. (New York: New York University Press, 2010; original Italian edition 2003) 4.
8. I have based this conservative sound-bite summation on the main data emphasized in the repeated coverage of the incident on Fox News, and on the talk radio summaries I listened to—but it also comes through, for instance, in the local CBS affiliate coverage. Also, I first learned about this flag flap when on 6 May a former student who lives in Morgan Hill sent me an e-mail that summarized the incident this way. She was angry with the vice-principal and the school, and felt that as a vexillologist I should back up the Morgan Hill Five. E-mail from Stephanie Doting to author, 6 May 2010.
9. Hate and anger toward Mexicans specifically or more vaguely Latinos in general run as a leitmotif through readers’ comments added to a range of videos and web-pages that cover this incident, indicative of the considerable underlying tensions it symbolized. See, for instance, the viewers’ comment on the YouTube video of KION-TV (Monterey, California) coverage: 1st comment includes “FN Mexicans go back to your shithole country if you love it so much, other wise you are not in mexico. FU.”; 2nd: “Get Mexicans out of our public schools. . . .they are asking for WAR!”; 3rd: “Mexican ‘students’ are never at school.”; 6th: “I’m so glad I left California, which will soon be another Kosovo. Enjoy your liberal cesspool, Obama-bots! LOL!”; 7th: “Punk Mexicans ganging up on someone in a wheelchair. They’re nothing but scum.”; 8th: “Those kids who marched out of school should’ve marched southward to the border, crossed over, and kept going. That’s clearly where they belong.” See “Where’s the Border Patrol When You Need Them?” posted by APReport on YouTube, 7 May 2010. Last accessed 26 August 2010. http://www.youtube.com/watch?v=-8OQ9mIVee8&feature=player_embedded#%21

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14. See "The California Gang Reduction, Intervention and Prevention Program: Keeping Our Streets Safe" linked from Governor's Home Page, State of California. <http://gov.ca.gov/issue/anti-gangs/>. Last accessed 26 August 2010.
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