

Law and Visual Jurisprudence 1

Series Editors: Sarah Marusek · Anne Wagner

Anne Wagner

Sarah Marusek *Editors*

Flags, Color, and the Legal Narrative

Public Memory, Identity, and Critique

 Springer

Law and Visual Jurisprudence

Volume 1

Series Editors

Sarah Marusek, University of Hawai'i Hilo, Hilo, HI, USA

Anne Wagner, Lille University, Lille, France

Advisory Editors

Shulamit Almog, University of Haifa, Haifa, Israel
Mark Antaki, McGill University, Montréal, Canada
José Manuel Aroso Linhares, University of Coimbra, Coimbra, Portugal
Larry Catá Backer, Pennsylvania State University, University Park, USA
Kristian Bankov, New Bulgarian University, Sofia, Bulgaria
Vijay Bhatia, Chinese University of Hong Kong, Hong Kong, Hong Kong
Katherine Biber, University of Technology Sydney, Sydney, Australia
Eduardo C. B. Bittar, University of São Paulo, São Paulo, Brazil
Nicholas Blomley, Simon Fraser University, Burnaby, Canada
Patrícia Branco, University of Coimbra, Coimbra, Portugal
John Brigham, University of Massachusetts, Amherst, USA
Jan Broekman, KU Leuven, Leuven, Belgium
Michelle Brown, University of Tennessee, Knoxville, USA
Sandrine Chassagnard-Pinet, Lille University, Lille, France
Le Cheng, Zhejiang University, Hangzhou, China
Paul Cobley, Middlesex University, London, UK
Angela Condello, University of Turin, Turin, Italy
Renee Ann Cramer, Drake University, Des Moines, USA
Karen Crawley, Southport, Australia
Marcel Danesi, University of Toronto, Toronto, Canada
David Delaney, Amherst College, Amherst, USA
Nicolas Dissaux, Lille University, Lille, France
Michał Dudek, Jagiellonian University, Cracow, Poland
Mark Featherstone, Keele University, Keele, UK
Magalie Flores-Lonjou, La Rochelle University, La Rochelle, France
Marcilio Franca, Federal University of Paraíba, Paraíba, Brazil
Thomas Giddens, University of Dundee, Dundee, UK
Carlos Miguel Herrera, Cergy-Pontoise University, Cergy, France
Daniel Hourigan, University of Southern Queensland, Toowoomba, Australia
Lung-Lung Hu, Dalarna University, Falun, Sweden
Stefan Huygebaert, Ghent University, Ghent, Belgium
Miklós Könczöl, Pázmány Péter Catholic University, Budapest, Hungary
Anita Lam, York University, Toronto, Canada
Massimo Leone, University of Turin, Turin, Italy
David Machin, Zhejiang University, Hangzhou, China
Samantha Majic, City University of New York, New York, USA
Danilo Mandić, University of Westminster, London, UK
Francesco Mangiapane, University of Palermo, Palermo, Italy
Aleksandra Matulewska, Adam Mickiewicz University, Poznan, Poland
Renisa Mawani, University of British Columbia, Vancouver, Canada
Rostam J. Neuwirth, University of Macao, Taipa, Macao
Arnaud Paturet, Paris Nanterre University, Nanterre, France
Andrea Pavoni, Lisbon University Institute, Lisbon, Portugal
Timothy D. Peters, University of Sunshine Coast, Sippy Downs, Australia
Andreas Philippopoulos-Mihalopoulos, University of Westminster, London, UK
Richard Powell, Nihon University, Tokyo, Japan
Kimala Price, San Diego State University, San Diego, USA
Alison Renteln, University of Southern California, Los Angeles, USA
Marco Ricca, University of Parma, Parma, Italy
Peter W. G. Robson, University of Strathclyde, Glasgow, UK
Austin Sarat, Amherst College, Amherst, USA
Cassandra Sharp, University of Wollongong, Wollongong, Australia
Julia J. A. Shaw, De Montfort University, Leicester, UK
Richard K. Sherwin, New York Law School, New York, USA
Lawrence M. Solan, Brooklyn Law School, New York, USA
Mateusz Stepień, Jagiellonian University, Cracow, Poland
Kieran Mark Tranter, Queensland University of Technology, Brisbane, Australia
Farid Samir Benavides Vanegas, Ramon Llull University, Barcelona, Spain
Denis Voinot, Lille University, Lille, France
Honni von Rijswijk, University of Technology Sydney, Ultimo, Australia
Marco Wan, University of Hong Kong, Hong Kong, Hong Kong
Oliver Watts, Australian Government Art Collection, Canberra, Australia
Xu Youping, Guangdong University of Foreign Studies, Guangzhou, China

The Series Law and Visual Jurisprudence seeks to harness the diverse and innovative work within and across the boundaries of law, jurisprudence, and the visual in various contexts and manifestations. It seeks to bring together a range of diverse and at the same time cumulative research traditions related to these fields to identify fertile avenues for interdisciplinary research.

In our everyday lives, we experience law as a system of signs. Representations of legality are visually manifested in the materiality of things we see and spatially experience. Methodologically, aesthetic texts of legality semiotically emerge as examples of visual jurisprudence and illustrate the constitutive waltz between social governance, formal law, and materiality.

In its tangled relationship to regulation, the visual complexity of law is semiotically articulated as an ongoing process of meaning imbued with symbolism, memory, and cultural markers. Through a legal semiotics framework of symbolic articulation and analysis, the examination of law that happens in conjunction with the visual expands understandings of how law is crafted and takes root. Additionally, such an inquiry challenges the positivist view of law based within the courtroom as disciplinary spatial practices, the observation of everyday phenomenon, and the visible tethering of regulation to cultural understandings of legality generate a framework of visual jurisprudence. The Series seeks to enliven such frameworks as those in which law happens precisely without formal institutions of law and through which a visual-based methodology of law is crafted through everyday instances of ordinariness that contextualize the relationship between law, culture, and banality.

The Series welcomes proposals – be they edited collections or single-authored monographs – emphasizing the contingency and fluidity of legal concepts, stressing the existence of overlapping, competing and coexisting legal discourses, proposing critical approaches to law and the visual, identifying and discussing issues, proposing solutions to problems, offering analyses in areas such as legal semiotics, jurisprudence, and visual approaches to law.

Keywords: Legal Visual Studies, Popular Culture, Everyday Law, Spatiality, Legal Semiotics, Legal Geography, Legal Materiality, Legal Transplant, Bioethics, Cyber Law, Communication, Heritage and Territory, Design, Marketing, Packaging, Digitalization, Arts.

More information about this series at <http://www.springer.com/series/16413>

Anne Wagner • Sarah Marusek
Editors

Flags, Color, and the Legal Narrative

Public Memory, Identity, and Critique

 Springer

Editors

Anne Wagner
ULR 4487, CRDP - Centre de recherche
Droits et perspectives du droit
Lille University
Lille, France

Sarah Marusek
Department of Political Science
University of Hawai'i Hilo
Hilo, HI, USA

ISSN 2662-4532

Law and Visual Jurisprudence

ISBN 978-3-030-32864-1

<https://doi.org/10.1007/978-3-030-32865-8>

ISSN 2662-4540 (electronic)

ISBN 978-3-030-32865-8 (eBook)

© Springer Nature Switzerland AG 2021

This work is subject to copyright. All rights are reserved by the Publisher, whether the whole or part of the material is concerned, specifically the rights of translation, reprinting, reuse of illustrations, recitation, broadcasting, reproduction on microfilms or in any other physical way, and transmission or information storage and retrieval, electronic adaptation, computer software, or by similar or dissimilar methodology now known or hereafter developed.

The use of general descriptive names, registered names, trademarks, service marks, etc. in this publication does not imply, even in the absence of a specific statement, that such names are exempt from the relevant protective laws and regulations and therefore free for general use.

The publisher, the authors, and the editors are safe to assume that the advice and information in this book are believed to be true and accurate at the date of publication. Neither the publisher nor the authors or the editors give a warranty, expressed or implied, with respect to the material contained herein or for any errors or omissions that may have been made. The publisher remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.

This Springer imprint is published by the registered company Springer Nature Switzerland AG.
The registered company address is: Gewerbestrasse 11, 6330 Cham, Switzerland

Foreword: Bannermen and Heralds: The Identity of Flags; the Ensigns of Identity

I am delighted to have the opportunity to write this Foreword to “Flags, Identity, Memory: Critiquing the Public Narrative through Color” edited by Anne Wagner and Sarah Marusek. The semiotics of meaning, and identity beyond the cavernous life-world, *Lebenswelt*,¹ of words offer a great opportunity to a chance to consider not just the past (the drapery of flags and standard bearing) but the future in a world in which meaning returns to a symbology in which the Word is no longer at the center of any performance or memory of meaning. Though flags have been considered from any number of perspectives, it is useful to revisit the notions of flag, community and identity, in the shadow of globalization. Just as globalization has challenged until recently settled ideas of identity and its organization among states, religions, and affinity communities, so has globalization changed the spaces within which flags can be constructed and deployed in the service of each of these, in defining their boundaries and in marking the fields on which they battle.

At the same time, the identity of flag and identity continues to serve as that great cauldron in which the abstract is incarnated, flesh is made spirit, and spirits are amalgamated into reconstituted creatures who now provide the great inhabitants of the ecology which globalization has produced. A flag, within these ideological walls of significances, can be said to constitute a proposition or judgment as its meaning and refers to a state of affairs which have a situation of affairs as a reference base.² “Coats of arms and flags are parts of a wider realm of graphic symbolism which characterizes the social and political organization of human societies around the world” including “seal logos, medals, decorations, uniforms and regalia.”³ Yet that graphic symbolism does more than characterize social and political organization—it serves as its incarnation and exercise; not just of the organization but of its essential constitutive ideology as well. Those who serve the flag, like those who served the

¹Husserl (1936).

²Rosado Haddock and Ortiz Hill (2000), p. 35.

³Smith (1999).

coats of arms—or the Crescent or Cross for that matter, also serve the persons or institutions who exercise authority and by so serving also incarnate in themselves the ideology that imbues the symbol with substance.⁴ For these bannermen and heralds, the flags are ensigns of identity, and the identity of flags can only be understood as an expression of merger of people, of object, and of identity in the relationship between individual, community and cloth.⁵

This Foreword is divided into five parts, and mostly for the convenience of the reader. It could as easily have been read without them; the section markers are themselves signs and an invitation to an interpretation with which one is free to engage. The object, at its greatest level of generality is to align conceptions of flag, as object, sign, and interpretive vessel, with a parallel idea of the flag as both states of affairs (as categorical objects, as the vessels into which interpretation is poured and consequences built in the world) and situations of affairs (as a reference base for judgment, the baseline basis for “flagging”).⁶ The flag, then, as verb and noun, as thing in itself and as the thing it incarnates; the flag as the act of constituting a thing and serving as its embodiment, as the site within which an identity outside of the individual is constructed from an amalgamation of autonomous individuals into a composite being; this flag itself becomes both the language and being of meaning through which the individual becomes a population,⁷ a population can be disciplined⁸ measured against the identity encoded in the flag,⁹ and which acquires a capacity for speech without the usual markers of text—a language of shape, color and symbol.

But with that in mind, it is useful to first consider the flag as a transition from the physical to the metaphysical, from an object, to an idea, to an identity, and to the aggregation constituted thereby, and then ultimately challenged and reconstituted. The flag, then, can be understood as swaddling cloth, shield, badge, and shroud. But this function of the flag as object, sign, and conceptual universe of identity is usefully understood through a history of meaning. The flag is itself not merely an object that constitutes identity and serves as a vessel for the ideology through which identity is constituted (and eventually challenged and reconstituted), but is itself a container of a universe of self-reflexive meaning. To understand the concept of flag as a self-conception is a necessary first step to understand its outward manifestation in its constitution of identity and the reconstitution of the individual. With that as a basis, Sect. 3 can then better engage with the objectivity of the flag as in the world as meaning and as history. Here one can at last encounter the flag in its best-known space as symbol, but now from a richer foundation. Section 4 then moves the

⁴This applies to a broad range of banners and heralds far beyond the narrow confines of official national flags. Santino (1992).

⁵Laughton (1879).

⁶With a significant nod to Husserl (1973).

⁷Foucault (2008), pp. 87–114.

⁸Foucault (1995).

⁹Backer (2018), pp. 160–170.

discussion back from the flag as object-sign to the text that is embedded necessarily in the signification of flag. Section 5 then concludes with a return to the object of this work—flags, color, identity—in the shadow of the flag as object, as sign, and as a constituting element of identity that in the process is itself constituted.

1 From Object to Sign to Meaning: The Flag as Swaddling Cloth, Shield, Badge, and Shroud

Humanity, as it expresses itself in all of its forms and manners, might be usefully understood as the constant but never repeating interplay between the incarnation of the abstract and the disembodiment of the physical. The early Christians, as they sought an incarnation of their own religious body apart from that of the other Jewish sects from which they emerged, provide a valuable and still potent expression of this incarnation of humanity in its current self-reflexive forms. Human society has been founded on Logos (the word made flesh)¹⁰ but operated on principles of transubstantiation¹¹ in the service of an exogenous order¹² of which the lived order is merely reflection.¹³ The “type” of self-conception is not unique to Christianity, nor is it a prisoner of history or context, but indeed makes both possible. The cultivation and control of objects that serve as the signs of meaning incarnate the social order (collective identity) even as it disembodies the individual within this now incarnate abstraction.

Yet these conceptual basic building blocks of meaning making (in the form of the meaning of identity) are impossible to express tangibly. The conceptual signs—the standards—for which our philosophers and theologians serve as bearers are unrecognizable, indecipherable, as vessels within which the ingredients for the actual making and management of the identities can be communicated. Logos is of little use to the illiterate, and words disaggregate thought even as it seeks to insinuate itself in meaning; pictures may work but that is another language system presenting its own problems.¹⁴ Identity as the reconstitution of the individual as the singular expression of the collective body whose essence animates (as in breathes life into,¹⁵ or leads¹⁶) the husks that are individual¹⁷ is also well understood. Still, these concepts are far too abstract to have any real power of meaning to directly affect those whose constitution is its object. At best one is embedded in the esthetics as

¹⁰John 1:1.

¹¹Luke 22:14–23.

¹²Matthew 17:1–8, Mark 9:2–8, Luke 9:28–36.

¹³White (1976).

¹⁴Brouwer (1995) and Lodge (1920).

¹⁵Genesis 2:7.

¹⁶Constitution of the Communist Party of China, General Program.

¹⁷Foucault (2008), pp. 87–114.

politics the subliminal operation of which requires a subtle mind and thus is less useful as a tool of identity and its politics.¹⁸

What is needed is something far more direct and simple, an *object* that can serve as a *sign*, the *shared meaning* of which produces the incarnation-disembodiment-reconstitution at the heart of identity.¹⁹ A color field is needed that can incarnate the abstract and disembody the physical. A flag is needed through which the collective can become the individual and the individual the collective. What is needed is a standard, a banner, a coded field of color and drawing, that makes the meaning of identity visible. Even the divine needs such an object around which to enfold its institutional presence on Earth.²⁰ It is necessary even as it hints of the fundamental tension between the abstraction of the Divine and the sin of idolatry within Abrahamic traditions.²¹

Not art—for those are signs that are in their own way as complex as the Logos whose own long-winded decomposition makes it far too hard for controlled re-aggregation as meaning replicable within the minds of all who are meant to compose a stable collective.²² One moves here both from the rarified world of Logos, through the esthetics of art, to the basest form of branding.²³ It serves as the *carinate* expression for the illiterate that itself, in a few short strokes, can describe the world and reconstitute the individual within it,²⁴ or contest it (e.g., the Confederate flag at regional NASCAR events in the USA whose own brand color field, the black and red checkered flag, is then threatened).²⁵

¹⁸Gude (2008).

¹⁹Everaert-Desmedt (2011).

²⁰Matthew 16:10 (“And I say also to you, That you are Peter, and on this rock I will build my church; and the gates of hell shall not prevail against it.”); also Pulleyking (2005) (“The Christian flag has no biblical or ecclesiastical tradition. Instead, in 1897 at a chapel in Coney Island, the featured speaker failed to show up. Needing to fill the vacant time, Charles Overton delivered an impromptu speech in which he produced a verbal picture of a “Christian flag.” Subsequently, as churches began to place American flags in the sanctuary, a second flag was needed for decorative balance. Hence more Christian flags were sold, for which the Overton family still receives royalties.” *Ibid.*, pp. 2–3).

²¹Pulleyking (2005) (“We discovered that American flags were brought into U.S. sanctuaries during WWII to remember the soldiers fighting in war. Flags are often used to stir the fighting spirit of soldiers, or as a symbol of victory in war. Is the holy sanctuary the place to stir the fighting spirit or declare victory over any earthly enemy? *Ibid.*, p. 2).

²²Barthes (1977), pp. 155–64; Eagleton (1991).

²³One uses the term “brand” and “branding” here in all its senses. It is at once a physical manifestation intangibly (and sometimes tangibly) burned into the skin of those to which it is meant to be attached. At the same time, it is the abstract manifestation of a product, a way of life, an identity, that from the twentieth century has served to condense an identity into a mark that itself serves as the banner of the product purchased, and through the act of purchasing, of merging the purchaser into the identity of the object purchased in a way identifiable to others. See, Löhdorf and Diamantopoulos (2014) and Xie and Boggs (2006).

²⁴Varga (2013) (nation branding); Vallas and Cummins (2015) (self-branding).

²⁵Lee et al. (2010) and Newman (2007).

Humanity, together or within its multiple and dynamic sub-collectives—then, can be understood both as the bannerman of the individuals who together constitute it, and as the banner—the flag—that itself is the standard that signifies the constitution of humanity. The identity of humanity is itself as much in its banner as it is thereby reflected—the flag is both a performance of collective identity and the means by which the individual can perform such identity;²⁶ *it is swaddling cloth, shield, badge, and shroud*. “You might ask mockingly: ‘A flag? What’s that? A stick with a rag on it?’ No sir, a flag is much more. With a flag you lead men, for a flag men live and die.”²⁷ These banners are not merely the stuff of rectangular cloth.²⁸ They are signs that can be trampled;²⁹ it is an object onto which its colors can be projected.³⁰

A flag—a banner or standard—then, makes meaning in a reflexive way, the way a lawyer translate words from object to symbol invested with a meaning capable of supporting a community of common meaning making.³¹ In the process of incarnating abstraction into objects, the identity between the object, its signified and its target produces the closed loop that produces the merger between abstraction and flesh that is the stuff of identity.³² Individuals, and their collectives, then, are bannermen for the incarnated identities the banner represents; at the same time the banner is itself the intangible space within which individuals may order a world-reality complete in itself with memory, order and progress.³³

2 The History of Meaning

The semiotics of identity in flags is embedded in its etymology. The etymology of the English language word flag provides a very small opening to meaning.³⁴ A principal derivation appears to center on its form—a paving stone, though the Old English appears to reference something similar, a piece cut from turf or inversely

²⁶Callahan and Ledgerwood (2016)

²⁷Pi-Sunyer (1995) citing Mayer (1993) p. 30 (quoting Theodor Herzl to Baron Maurice von Hirsch).

²⁸Eriksen and Jenkins (eds) (2007).

²⁹Joffre (2020).

³⁰Aronczyk (2007), pp. 105–107 (nation branding through a red-and-white toy kite as Poland’s metonymic mark of identification; “it is possible to view nation branding not as a new or necessarily nefarious process, but rather as a logical extension of a particular way that national (or other territorially bounded) identity has long been construed and communicated in time and space” *Ibid.*, p. 107).

³¹Broeckman and Backer (2013).

³²Huntington (1996) and Eriksen (2007).

³³Wolf (2000).

³⁴Etymology Online (Flag).

from Old Norse as the spot from which that piece of turf was cut.³⁵ It acquires its current meaning from the fifteenth century both as a cloth ensign (noun) and to flap about (verb) either haphazardly (unintentional) or to signal (intentional). The connection to ensign is important—also from about the same time period. It is here, rather than in the flag word itself, that the term acquires a more direct association with notions of symbol, badge, mark of authority, along with its military connotation of both object and the person assigned to carry it (our “bannerman”).³⁶ Perhaps closest to its meaning that centers its physical manifestation (as a sign-object rather than as the incarnation of shared meaning) is the Latin term *vexillum* though even this word connotes standards, banners, and the company which is organized around it. Vexillology, the study of flags then suggests that the physical manifestation of these ensigns might serve as the starting point for study; one centers the objectivity of the sign rather than on its sign-interpretant. Vexillology, then, starts as the study of an object (generally now a cloth) and its variations over time and across spaces and ends with meaning—not necessarily of what the flag incarnates but instead of the identity of the community of flags. That is, when one starts from the study of the object, the best one can hope for is the construction of the collective of flags and their common identity (within well principled and thus constraining variation).

Contra-centering etymology, however, away from object (flag) and towards meaning (standard/banner/ensign), may enrich our consideration by pushing one out from the object and into its meaning—not within the community of flags but rather within the community that in constructing the flag constructs their own identity. The flag as identity rather than as object might suggest the value of considering origins of the word banner, for example, rather than flag. The English word banner can be traced back to the “Old French *baniere* “flag, banner, standard” (12c., Modern French *bannière*), from Late Latin *bandum* “standard,” borrowed from Frankish or another West Germanic source, from Proto-Germanic **bandwa-* “identifying sign, banner, standard,” also “company under a banner” (source also of Gothic *bandwa* “a sign”³⁷ But the term is also reflexive—the sign and its interpretation reverse places; “Figurative sense of ‘anything displayed as a profession of principles’ is from early 14c.”³⁸ It carries with it the imperative—stand fast, a derivation meaning of the word standard from Frankish meaning “stand fast or firm” or from the Old French to stretch out.³⁹ The flag, as a banner, a standard, thus incorporates deep linguistic overtone from its military origins as an expression of communal action in defense of itself, as well as the expression of the ideology around which the community itself constitutes itself—the concrete expression of which is the flag. But it also has the element of the personation of power as well—a standard or banner is not merely a tangible object that serves as a rallying point for

³⁵Ibid.

³⁶Etymology Online (Ensign).

³⁷Etymology Online (Banner).

³⁸Ibid.

³⁹Etymology Online (Standard).

military forces. It also signifies the incarnation of the community in the body of the leader whose right to lead the community, and whose signification as the expression of the disciplinary authority of the community is expressed through their relationship to the banner, a view of Kantorowicz's famous theory from a different perspective.⁴⁰ In the contemporary era, that same dynamic found expression in the creation of the flags of post-Soviet states in Eastern Europe. Here, with some exceptions, the flag was utilized as the condensed space within which the community described itself both to itself and to the rest of the world.⁴¹

It might be useful, as well, to consider the Romance language words to enrich the understanding of the context from which the English words derive. In Spanish the word *bandera* is defined as a cloth or similar object that serves as a *signal* or *insignia*.⁴² *Insignia* itself is a curious word, a composite of the Latin *in* (towards) plus *signum* (a sign). It references a tangible object whose principal purpose is to incarnate a sign;⁴³ in the form of *insignis* a sign that is distinguished (as by a mark) from which was derived *insigne*, a sign or badge of office. *Signum* itself, the sign, is both a gesture or a mark—"a signal, an omen; sign in the heavens, constellation."⁴⁴ *Signal* itself also alludes to a sign, imprint or mark but in the sense of an agreed to sense of meaning of sign—a sign that has been interpreted.⁴⁵ A flag, then, is a sign whose purpose is internal, and *insignia* (to define a collective and to map the space within it as a normative and cultural matter). But it is also a signal, to project that world of meaning outward.

The Spanish *bandera* derived from the Latin *banda* which means both the flag itself and those bound to the abstract community of which the flag serves as a sign.⁴⁶ The object then is self-reflexive in the sense that the object (flag) it reflects meaning even as it contributes toward its creation (or management): "a single exposure to an American flag resulted in a significant increase in participants' Republican voting intentions, voting behavior, political beliefs, and implicit and explicit attitudes, with some effects lasting 8 months after the exposure to the prime."⁴⁷ It is the existence of the flag that contributes positively to popular well-being⁴⁸ even as it serves as the symbol of the aspiration toward increasing well-being. Flags are constructed by and help construct, it solidifies and protects identity—it is both tool and object of

⁴⁰Kanterowicz (1957/2016).

⁴¹Matjunin (2000).

⁴²Real Academia Española(1970) *bandera*.

⁴³As Eco would have it-----

⁴⁴Etymology Online (Sign).

⁴⁵Etymology Online (Signal).

⁴⁶Real Academia Española (1970) *bandera*.

⁴⁷Carter et al. (2011), p. 1011; Kimmelmeir and Winter (2008) (practices surrounding the American flag and its implications for the reproduction of American national identity).

⁴⁸Amavilah (2008) (finding that the existence of the flag rather than specific color combinations, that are significant).

identity—and make reabsorption that much more difficult.⁴⁹ It protects and projects identity, especially political identity, even as it recreates its content. The experience of colonial India is telling.⁵⁰

3 The Object as Meaning and History

Etymology, then, underlines history.⁵¹ Human society has always, it seems, organized itself around and through objects reconstituted as symbols imbued with collective meaning. At the same time, that symbol organized itself around a community with respect to which it could substitute itself as the incarnation of the otherwise abstraction that is any community.” That incarnation one can *identity*, the etymology of which⁵² also points to the what results in flesh from an otherwise abstract transformation of the individual from an autonomous being to a constituent element of a collective; that is to the understanding of the identity between the community and the individual.

The flag, though, is not just an object but an action—to flag means to deploy the flag in ways that it will be encountered, and in the encounter, to deepen the connection between the object, its meaning and the communal and ideological expectations that meaning produces. In the USA, it has been argued, “the cultural practice of flagging is an important aspect of the maintenance and reproduction of the American national identity.”⁵³ But flagging can as well evidence the struggle for control of its meaning. Flagging then visualizes disunity among factions fighting for dominance as well as the vessel through which the settled notions it represents may be incarnated.⁵⁴ Flags though are not seen but sung; flagging and visualization can be leveraged by ritual performance that verbalizes the ideology embedded in color and markings on a flag.⁵⁵ And it can displace and transform identity merely by

⁴⁹Bonner (2002) (on flags and the consolidation of Confederate identity in the US South; “‘If ever there is a real sentiment du drapeau got up in the South,’ he noted, ‘it will be difficult indeed for the North to restore the Union.’” Ibid p. 293 (quoting William Howard Russell on his ride through North Carolina in 1861)).

⁵⁰Rpy (2006).

⁵¹Smith (1975) (“The sweep of history has seen men and women everywhere rally around flags, from time immemorial when flags were crude marks of identity and symbols of great emotion to the great revolutions that saw the emergence of today’s nation-states and their national flags.” Ibid., frontflap).

⁵²Etymology Online (Identity) (“c. 1600, “sameness, oneness, state of being the same,” from Middle French *identité* (14c.), from Medieval Latin *identitatem* (nominative *identitas*) “sameness,” ultimately from Latin *idem* (neuter) “the same”).

⁵³Kemmelmeir and Winter (2008), p. 872.

⁵⁴Gerbaudo (2017), pp. 123–125 (the use of the national flag by anti-government protestors in Brazil, the U.S., and Turkey as indictment of the anti-national stances of the governments against which they were protesting).

⁵⁵Cerulo (1993).

supplanting an old for a new set of signs—the emergence of the flags of Republican France and the USA speak to this, but so does the emergence of the flag of National Socialism in the German Reich.⁵⁶

The flag, then, is a gateway object into the conceptual universe of signs and meaning it represents both as a matter of internal discipline and external performance. It is also a language—a means of communication based on a shared meaning of flags each as a word, thought, concept or phrase, a “Numerary Systems for signaling by flags in the latter part of the 18th century, first by the French, followed by the British.”⁵⁷ Signs, signals, badges, rank, position, gesture, these are the incarnations of a collective, of an identity grounded in the ideology now condensed to a colored cloth rectangle or similar signaling device.

The symbolic language of flags also evidences the condensed language through which identity is communicated. Symbols are not merely markings which reference a historical connection between a people, the land, and normative or constitutive utility. One can start with color. On research study found that “A total of 151 national flags contained red, accounting for approximately 79% of all examined flags. Red was followed by white (140 flags). Blue, yellow, and green had similar frequencies (95–99 flags), whereas black and other colors were considerably less frequent (Figure 1). In contrast, only four of the 20 international collaborative organizations used red on their flag.”⁵⁸ The authors found that there were no appreciable regional differences for the use of red. Red, though, did not embody the same meaning across usage: the authors reported that 76 states used red as a representation of blood, 22 used red as a symbol of bravery, 11 as a symbol for struggle, 6 for both revolution and victory, and five each for independence, passion and freedom.⁵⁹ The result tends to suggest the greater importance of flagging for the internal constitution of identity than for its protection outward—at least among the community of states. However, there was significant difference between regions in the use of other colors: African states rarely used white, a majority used green instead; blue was most used by American and Oceanic states and least by Asian states; the same was true of yellow (with respect to Central and South American states versus Asian states); black was used most by American and least by European states (with the telling exception of Germany).⁶⁰ Interestingly, this showed some changes from a similar study undertaken in 1969, which found an equal preference for red, blue, and yellow (though the same strong preference for green among African states).⁶¹

And yet our corporate siblings remind us of the critical importance of color-coding identity in the market.⁶² Though they speak to markets for good and services,

⁵⁶Hill (1982).

⁵⁷Kent (2001), p. 187.

⁵⁸Zhang et al. (2018), p. 116.

⁵⁹Ibid., p. 116.

⁶⁰Ibid., pp. 116–117.

⁶¹Lindauer (1969).

⁶²Janssens (2014) (“This publication collects 100 of these color-based identity codes, each labelled with a specific name. . . Trust Blue, Peace Blue, Irish green, Islam green, and Army green; or Dutch

it is hard to avoid considering the value of color coding for identity in markets for politics as well. There are well-known examples in the contemporary political landscape. Orange incarnates an identity in Ukraine⁶³ quite distinct from its identity incarnating role in Ireland, the later conflating political and religious ideologies/identities.⁶⁴ Blue and white have now assumed a quite provocative color arrangement within the *dar al Islam*, representing both Judaism and Zionism and the contest for land wrested from the Christians during the first (Muslim) crusade of the 6th century. And yet blue and white would mean something else of Finland. In this case color plus symbol—a cross or a Star of David makes all the interpretive difference in the world. And yet in both cases, the notions of sacrifice and unity were never far from the surface of flag ideology and performance.⁶⁵ And within the community of Israel after the exodus from Egypt it was said that the ensigns of the twelve Jewish tribes color played a critical role, not just distinguishing one tribe from the other, but connecting all tribes to the earthly manifestation of Divine overlordship.⁶⁶

Color is augmented by symbols—both simple and arcane. The ancient symbolism of heraldry⁶⁷ emphasized a double symbolism at least in medieval times—the first was the incarnation of the state through the monarch (by whatever title that individual was referred in specific context); the second was the incarnation of the monarch-state in the symbol by which he-it was referenced. An individual would bear the standard of the monarch (the bannerman) and by so bearing perform an acknowledgment of the fusion between the individual and the banner to acknowledge first the identity between the individual and the collective, and second the identity between the collective and its physical representation in the body of the leader. The core of leadership was flagged by the symbols which appearing on the banner itself constituted the identity of and between the collective and its apparatus. Here one never strays far from religion, or the spiritual.⁶⁸ That standard represented location or space (the monarch is present, and thus the state); or object (the monarch is judging); or action (the monarch is engaging in war). As such, one never strays far

orange, Guantánamo orange or Hindu orange. . . In this publication a hidden organization of our reality along the lines of color becomes visible. Ibid). The work has been criticized for its lack of research findings. But that, actually, adds to its ironic sonance. If the criticism is true, then he is merely mimicking, and by mimicking becoming a potentially leading force, in the construction of color referents. Especially in business one hardly needs an academic position to make meaning.

⁶³Wilson (2005).

⁶⁴Roberts (1971).

⁶⁵For Finland see Tepora (2008) (use of the national flag as symbolic and actual sacrifice in the wars of liberation between 1917 and 1945).

⁶⁶Eisenberg (n.d.) (“According to the Midrash, each tribal prince had a flag (*mappah*) of a unique color, corresponding to one of the 12 precious stones of the breastplate of Aaron, the *Kohen Gadol*”).

⁶⁷Nadler (2016) and Ailes (2002).

⁶⁸Karl (2014).

from the trope of a church militant, whatever the form taken by the collective and institutionalized religious community.⁶⁹ “The Israelites shall camp each with his standard, under the banners of their ancestral house; they shall camp around the Tent of Meeting at a distance.”⁷⁰ And one often finds them blended together—symbol, identity, hierarchy, human, divine, collective identity and individual burden—long after their Biblical context. In “1559 after an Ottoman victory at Djerba over the Spanish [u]pon entering the port of Istanbul a captured flag reportedly showing Christ on the cross was trailed behind a ship in the seawater in order to humiliate the vanquished and their religion.”⁷¹

At the same time, the powerful double symbology of the state, the monarch (leader), and the community embedded in the ensign or in the banner could only be destroyed by destroying the symbolic power of the sign itself and the physical connection between the body of the monarch and the state. The French produced the contemporary high theater of these symbolic performances of identity and its reconstruction. They virtually simultaneously chopped off the head of their king—thus severing the body of the monarch from the collective body of the state; and they cast away the symbols of the monarch-state substituting color for symbol: the *tricolore* obliterated the personality of heraldry and substituted the more abstract solidification of the collective and its identity through amalgamation, through the colors of red, white and blue.⁷² American identity symbology was equally deployed—the stars and stripes were produced as a straightforward illustration of the construction of a union among sovereign states (the white states on a field of blue) leading and supporting (the alignment of the stars in their field to the highest and closest point of the flag to its pole) the people through whose historic and collective efforts remade *themselves* as something other than a colonial settlor people.

And yet the old relationships survived. The flag retained its role as *icon*, in the sense that the Greek Christian Church understood that term⁷³ on the eve of the iconoclastic revolution (mimicked almost a thousand years later in the course of the Catholic Reformation).⁷⁴ It is just that its iconography changed to suit the times. The personality of heraldic symbols was eliminated (by the substitution of color field) or

⁶⁹Nadler (2016).

⁷⁰Numbers 2:2.

⁷¹Karl (2014), p. 200.

⁷²Znamierowski (2007).

⁷³On the role of image and the worship of saints in the Greek Church, see, Galadza (1991) (“A ritual event which is viewed as *embodying* the mystery of salvation will always be regarded with more deference than an act which allegedly only ‘expresses’ that mystery. . . Hence the Slavonic *pravoslavive*, which can only be understood as ‘right glorification.’ . . . Belief, then, is embodied, ‘incarnated,’ in liturgy.” *Ibid.*, p. 240).

⁷⁴On the iconoclasm of the early Protestant Church, see Eire (1986). On the semiotic foundation of the articulation of differences between Martin Luther and Andreas Bodenstein von Karlstadt, see, Zickler (2016) (While Karlstadt read the biblical commandments against idolatry literally, “Luther points out that he too has been dedicated to destroying images: ‘I approached the task of destroying

transformed. In either case, the personality of the identifying herald (person or family which marked the relationship with others in the same collective as well as the collective itself) was replaced with the personality of the collective itself. The USA, for example, substituted Flag Day “to give significant expression to our thoughtful love of America, our comprehension of the great mission of liberty and justice to which we have devoted ourselves as a people, our pride in the history and our enthusiasm for the political program of the nation, our determination to make it greater and purer with each generation.”⁷⁵ The collective made itself, the representation of which constituted the flag itself, or the herald substituted the body of the collective for the person of the monarch. The iconic function of the flag remained unchanged; and like religious cons heavily embedded with semiotic signification.⁷⁶ It was to be venerated in the appropriate forms, it might be invoked, and it would be displayed in procession and other events as the physical manifestation of, that is the portal connecting, the individuals invoking its power and the source of the power itself.

4 From Object to Text and Back Again

All of this is well-known, even if such knowledge is organized to suit the interests of those charged with its production. The flag as a meeting point of binaries and their inversions continues to be a powerful expression, act, performance, manifestation, and the like of the things themselves and the power of their representation. One speaks to identity when one speaks to flags; and that discussion is a very messy business. The visualization of identity (and its complexities and pathways), however, leaves unvisualized, the relationship between image and text.⁷⁷ While text is sometimes visualized in a flag, flags tend to serve as a substitute for, and a condensation of, the text that itself speaks the realities (or ambitions) of the construction of identity that is the relationship between a community and its banners. Here, however, is where role reversal is at its most potent. For just as individuals and human organizations serve as the bannermen of the flags, the ensigns of identity, that represent and reconstitute them along the lines of their embedded meaning; so flags serve as the bannermen of the Logos—of God (the ultimate organizing abstraction in systems of human organization and self-consciousness)—that reconstitute the banner into the coat of arms (in Spanish *Blasón*) of the text which it incarnates. One encounters here

images by first tearing them out of the heart through God’s Word and making them worthless and despised.” Ibid.).

⁷⁵Nadler (2016) (quoting Woodrow Wilson’s text on the Proclamation of Flag Day, 30 May 1916).

⁷⁶On the semiotics of the Russian icon, Uspensky (1976).

⁷⁷On a possible symbiosis, see, Grainger et al. (2017) (arguing that their research suggested that national flags appear to influence word recognition in bilinguals, and that such flags automatically activate language membership information).

a more elaborate model of a semiotic wheel—the constant spinning of object, sign, interpretant in interlocking circles moving around so quickly that to the outside eye they merge into a singularity, an ideological ghee that is used as the essential ingredient of the pancake that is human identity.⁷⁸

Flags then, like the ancient body of the king,⁷⁹ serve as the nexus of a double incarnation. The first is the well-known incarnation of the individual or people they constitute (along with their institutional organs), considered above. The second, the focus of what follows, is the obtusely theorized incarnation of the Logos, not as flesh but as cloth, shield, and totem. To consider the nexus between flag and text, however, produces an initial conundrum for literate societies. That conundrum—whether one references an abstraction (the ideas, intent, objectives, desires, thoughts, premises and the like which give shape to identity) reduced to spoken words, or does one refer to the symbols—written text—to which those abstractions have been reduced. The differences are well-known and much discussed. More interesting here is the effect on the relationship between cloth-symbol—flag—and the chain of interpretation from which its meaning is derived (and controlled). Writing, as much as the flag itself is a *persona*⁸⁰—an object, in this case an object (the identity structuring story) that itself becomes the vessel for interpretation injected into other personae (the discursive trope projected out).⁸¹

This is all well-known; but its power relationships less so. Flags here assume the same role as text in law. And flags pose the same semiotic question: when one gazes at the flag (text) is its meaning derived solely from its manifestation as flag (text) that is from its color (words) manifested on cloth (paper); or is the flag (statute or text) merely an expression (an incarnation) of the underlying abstraction (the legislature's or lawmakers intent or objective)? There is no answer here; only allocation of power.

American jurisprudence provides a window on the semiosis of that debate—or at least the semiotic rituals in with it is swaddled (clothed, or shrouded).⁸² Conversely, the flag, like the text of a statute, can, by incarnating an abstraction, become the incarnation itself and thus limit its meaning to its own self. The color orange becomes not just the color but the limits around which the color orange can be understood—in Ireland, and in Ukraine.⁸³ Alternatively, the flag, like text, can be understood as a pass-through—as a symbolic marker of abstract space—as an invitation to engage with the abstract. That is, the text, like the color, is a memory

⁷⁸Bannerman (1899). The analogy is to the story of Little Black Sambo, a South Asian child who encounters a band of hungry tigers to which he surrenders his cloths so avoid being eaten; the tigers vie with each other to see who among them is the better dressed in these cloths and in the ensuing argument chase each other around a tree until they are reduced to a pool of *ghee* (clarified butter); Sambo, recovering his cloths and takes the *ghee* to his mother who uses it to make butter.

⁷⁹Kantoerowicz (1957/2016).

⁸⁰Long (1999).

⁸¹Chatmen (1978).

⁸²Eskridge (1989) (text or context; and if context, context focusing on purpose or context focusing on the meaning of text); cf. Molot (2006).

⁸³Discussed above Sect. 3.

mnemonic. But what memory does it prompt? And who can authenticate the legitimacy of the product of prompting? In legal space that is the role of lawyers and judges.⁸⁴ And the referent is the legitimate font of power exercise—the legislature or its administrative agencies legitimately exercising delegated authority.⁸⁵

Flags, like statute, thus serve too abstract masters. The flag—and its color directional signal—might itself be the alpha and omega of the interpretation and constitution of which it serves as representation. Conversely, the flag and its color coding might as well serve only as an invitation to affirm extra banner text—as a gateway. Is the flag its color-cloth, or is the flag instead of the *link*, to use the language of the internet and its websites) that one presses to transport oneself to the more profound incarnation of abstraction in words (written, aural, or constructed out of imagery)? The simpler answer, and the cleaner one for academic semiotics, might well be the first. A simple flag, a simple color, an embodiment and a set of identifiers that ten constitute as they are constituted. Note that linear analysis sacrifices the deeper semiotics of multi-level objectification, of significs, and of interpretation. Here semiotics operates on multiple levels and in multiple spheres—that of the simple symbology of the cloth color field to manage the masses (and the media) and that of the text (to constitute meaning and identify its managers), as well as that symbiosis between text and object. This is the world that Richard Rorty understood well, whose logic may be grasped but neither resolved nor managed well—the world of first incarnations.⁸⁶ The shadow of Plato continues to shield one from the sunshine of the wispieness of meaning.

Now one is back to the world of power; and one is back to *its* semiotics,⁸⁷ its flags. In the balance is the distribution of power through the alignment of groups with interpretive power. In a world of text, cloth acquires a secondary significance; the priesthood that controls the text controls the meaning of color. And the meaning of color itself becomes the abnegation of literacy necessary for ownership of a complex identity codex, the power over which is ceded to its priesthood. In the USA that priesthood includes lawyers, judges, industrialists and those who control the vehicles for reaching out to the masses. In Marxist Leninist states they include the Communist Party hierarches operating through their lower level cadres. In theocracies one looks to the priesthood. For them the flag is reduced to its simplest form of communication—color on a field of cloth, or as a visual representation on computers, posters, and the like. But there also lies the danger to the text-priests. A flag, a color field compressing complex text codes can as easily be hijacked by emerging priesthoods. The simpler the medium of communication with the

⁸⁴Philbrooke v. Glodgett (1975) (objective is “to ascertain the congressional intent and give effect to the legislative will” Ibid., p. 713); U.S. v. American Trucking Association (1940) (function of the courts is to “construe the language so as to give effect to the intent of Congress.” Ibid., p. 542).

⁸⁵Manning (2005).

⁸⁶Rorty (1981) (nothing exists but ideas; nothing exists but text; discussing similarities between twentieth century literary criticism and nineteenth century idealism).

⁸⁷Vance (1991).

masses—the more primitive the appearance of the semiotics of objects—the easier an outward manifestation of complex internal contestations, of identity, of perception, of meaning, bound up in text over which the color field of the flag provides cover.⁸⁸

And that leaves one with the perplexing after thought: to what end this consideration of flags within pulsating stimuli that ritualize objects to compress the rule structures around which meaning is made and humans can, by staring at these ritual objects see themselves for something other than what they are? One answer is geopolitics and its management.⁸⁹ The other is national identity, including the management of its sub-nationalities and the projection of nationality through transnational organs.⁹⁰ Flags and their color coding provide the mechanics for meaning but also the toolkit for hierarchy and the ceding of power. Power cedes up to elites who manage the text-meaning of color and enforce its constraints. Power is ceded down during those brief revolutionary moments when color control is wrested from the priesthood of meaning and used against them. The centering of power semiotics then moves the gaze from the color to those with the control of the color palette; from those who perceive color to those who manage that perception. The construction of identity through flags provides as much of a basis in the production of China's silk roads, and the regional trading systems of America first, as it reminds us of the detritus of the twentieth centuries identity culture wars. But the semiotics of flags in globalization will still draw deeply from the power-incarnation semiotics of the past, just to distinct and historically contextual ends.

5 The Ensigns of Identity

It is within this meta-semiotics of meaning that “Flags, Identity, Memory: Critiquing the Public Narrative through Color” is situated within its own semiotics as object, sign, and as the transformation of both into ritual objects of incarnations of their own representations. Its central object is itself both object and interpretation—the employment of culturally specific color codes and images in the project of the identification of “identity,” a project that conceals assumptions about members of a people comprising a nation, or a people within a nation. Flag, identity, color, identity, concealment, people, code, peoples, nations, culture, are all object, sign, and the constructed product of interpretation simultaneously. That simultaneity produces the possibility of concealment, even as it incarnates and degenerates its objects—abstract or intangible in their interaction. Indeed, the central element of the project is at its most profound not with respect to their well-known abstract incarnate

⁸⁸Mamadouh (1998).

⁸⁹Müller (2013) (text as representation—as something that constructs meaning valued as reality).

⁹⁰Huntington (2004 (American flag exceptionalism and its place within the hierarchy of identity symbols in a multi-identity state; *ibid.*, p. 124)).

object-signs, but in the engagement with the rituals, the processes, the dynamic element, in their interactions.

That dynamic element centers narrative, for which the flag serves as a compression of dialogues of belonging that become tethered to negotiations for power and resistance over time and throughout a people's history. Identity here becomes an object built on or through another—a cloth—that serves to announce, define, and project, the abstraction on flesh (the individual) and yet another abstraction (community) by imposing an incarnation of alignment that itself assumes a physical presence in the form of the flag, communicated through color about articulating a text that itself has been made flesh (written words). Likeness, as an object, *as a thing*, may be imagined, as Anne Wagner and Sarah Marusek suggest,⁹¹ imagined or even perpetuated, the idea of sameness may be socially, politically, culturally, and historically contested to reveal competing pasts and presents. Visually evocative and ideologically representative, flags are recognized symbols fusing color with meaning that prescribe a story of unity.

And thus the semiosis, now producing an anarchy—a fluidity of meaning, and of objectification, and of incarnation—without an ordering center. And from here the invitation to reflection that constitutes the profound reflections of those contributing to this volume. Here contributors speak to time, to the incarnation of history as a path or as its negation the detritus of which are the identities bound up in colored cloth. One speaks as well of insemination, of transmission, of the rituals of passage in the face of mortality; flags are the banners of immortality, signaling the presence of the eternal standing in defiance of the mortality of the individual (a degenerating object) into a monument to her passing.⁹² Here, too, flags as a shroud, made out of the same material of the swaddling cloth and the tonic which marked the birth and passage of the individual, of identity, of the singularity and the mass. Now, at last, revelation of the complex color-coded sign system of particular flags and their meanings attentive to a complex configuration of historical, social and cultural conditions that shift over time.⁹³

6 Parting Thoughts: “Hold High the Banner of the Lord!”⁹⁴

Human society will continue to serve willingly as the bannermen of incarnated abstraction. Those are the incarnation of desire; of a desire from within through which the “all too human”⁹⁵ constitutes itself; of the desire made flesh through which

⁹¹Wagner and Marusek (2020).

⁹²Elliott (2001), pp. 39–80.

⁹³Bruter (2005), pp. 77 et seq.

⁹⁴Exodus 17:16 (He said, “Hold high the banner of the Lord! The Lord will continue to fight against the Amalekites forever!”).

⁹⁵Nietzsche (1908/1878) (“The importance of language in the development of civilization consists in the fact that by means of [30]it man placed one world, his own, alongside another, a place of

those reconstituted heralds projects that constitution outward onto the world; of the desire of superior abstractions (also made flesh) whose will constitute the individual and its collective from the outside and directs its internal constitution.

The ideal of the ensign remains tightly woven into the incarnation of human identity. People, and THE people hold high the banner of identity. The “First” Testament records both the centrality of banners in the identification of the community of believers—a sign of covenant divided into its functional sub-structures by color connected to the divine overlordship⁹⁶—and also its projection against enemies.⁹⁷ It remains a centering element among the religions that acknowledge new covenants of this relationship, and is used to project new generations of identity bearers out into the world.⁹⁸ The Chinese Cultural Revolution also reconstituted the identity of its revolution and its masses around the banner and the cult of the leader: “Hold High the Great Banner of Mao Tse-tung’s Thinking.”⁹⁹ The Great Proletarian Cultural Revolution was itself heralded by bannermen.¹⁰⁰ That device of holding

leverage that he thought so firm as to admit of his turning the rest of the cosmos on a pivot that he might master it. . . It is the same with the science of mathematics which certainly would never have come into existence if mankind had known from the beginning that in all nature there is no perfectly straight line, no true circle, no standard of measurement.” *Ibid.*, ¶ 11 (Language as a Presumptive Science)).

⁹⁶And discussed above Section 3.

⁹⁷Exodus 17:15–16 (Moses built an alter and named it “The Lord is my Banner.” He said, “Hold high the banner of the Lord! The Lord will continue to fight against the Amalekites forever!”). The pulsating incarnations of abstraction projected outward from an identity source (God) through the constitution of a communal persona (Israel) to its projection against the enemies of both (the Amalekites) are succinctly expressed in these two Biblical passages.

⁹⁸Oaks (2012). It is worth noting at some length:

Almost forty years ago President Marion G. Romney stood at this pulpit and spoke these words to graduates at a BYU commencement exercise:

You all have a mark upon you after today. . . . You will be known as a graduate of Brigham Young University, [which is] part of The Church of Jesus Christ of Latter-day Saints. The people who know you and see you will judge the Church by you. Your great mission is to hold the banner high. [“Concluding Remarks,” BYU commencement address, 20 April 1973, 1]

You “have a mark upon you.” We all have marks or labels upon us. Our names and many characteristics of our appearance, such as family similarities, are marks. So is our speech. These marks are involuntary. Other marks are voluntarily assumed, like religious symbols that various faiths use on their apparel, which we honor, and tattoos, which we discourage. Our Savior is the model for a self-imposed mark of the utmost significance. Isaiah spoke messianically as he voiced the Savior’s declaration: “I have graven thee upon the palms of my hands” (Isaiah 49:16). In their own ways, each of these marks—holy and mundane—is a -banner that sends a signal. (*Ibid.*, ¶ III).

⁹⁹Peking Review (1966) (“We must together with all the people of our country raise high the great red banner of Mao Tse-tung’s thinking and unswervingly carry the socialist cultural revolution through to the end and make the literary and art work of our armed forces play a great role in putting politics first and in promoting the revolutionization of the people.”). The banner trope spread to the West as well at the time. People’s Canada Daily (1977).

¹⁰⁰Jiang Zemin (1997).

high the banner of identity in its dynamic societal-political sense remains a constant within China.¹⁰¹

As the title of this collection of marvelous essays elaborating its themes in profoundly important ways, Flags serve as the vessel of identity and memory and to that extent speak the language of symbol, and the language of symbol speak for the abstraction and incarnation of both identity and memory in ways that are realized—performed—through the ritual critiques of public narrative through color. Color is a gateway, an expression, a compression of the richness that is that protean sphere within which the divine act of creation, degeneration, and recreation can be manifested through the techniques of its identification. And yet, that itself is yet another level of the semiosis of existence, of the investment in ritual objects of form and character that itself incarnates abstraction and abstracts object-signs as their own representation.¹⁰²

Pennsylvania State University, Schools
of Law and International Affairs,
University Park, PA, USA

Larry Catá Backer

References

- Ailes A (2002) Heraldry in Medieval England: symbols of politics and propaganda. In: Coss PR, Keen M (eds) Heraldry, pageantry and social display in Medieval England. The Boydell Press, Rochester, pp 83–104
- Aronczyk M (2007) New and improved nations: branding national identity. In: Calhoun C, Sennett R (eds) Practicing culture. Taylor & Francis, New York, chp. 5, pp 104–128
- Amavilah VHS (2008) National flags, national flag colors, and the well-being of countries (October 10, 2008). Available at SSRN: <https://ssrn.com/abstract=1359943>
- Backer LC (2018) Next generation law: data-driven governance and accountability-based regulatory systems in the west, and social credit regimes in China. *South Calif Interdiscip Law J* 28:123–172
- Bannerman H (1899) *The story of Little Black Sambo*. Grant Richards, London
- Barthes R (1977) From work to text. In *Image-Music-Text*. Fontana, London
- Bonner RE (2002) Flag culture and the consolidation of confederate nationalism. *J South Hist* 68(2):293–332
- Brouwer H (1995) Communicating with pictures: the role of pictures in health education in outpatient clinics of rural African hospitals. *Vis Sociol* 10:15–27
- Broeckman J, Backer LC (2013) *Lawyers making meaning*. Springer, Dordrecht

¹⁰¹Xi (2017).

¹⁰²Marvin and Ingle (1999) (In American civil religion, the flag is the ritual instrument of group cohesion." *Ibid.*, p. 2).

- Bruter M (2005) *Citizens of Europe?: The emergence of a mass European identity*. Palgrave-MacMillan, London
- Callahan SP, Ledgerwood A (2016) On the psychological function of flags and logos: group identity symbols increase perceived entitativity. *J Pers Soc Psychol* 110(4):528–550
- Carter TJ, Ferguson MJ, Hassin RR (2011) A single exposure to the American flag shifts support toward republicanism up to 8 months later. *Psychol Sci* 22(8):1011–1018
- Cerulo KA (1993) Symbols and the world system: national anthems and flags. *Sociol Forum* 8(2):243–271
- Chatman S (1978) *Story and discourse: narrative structure in fiction and film*. Cornell University Press, Ithaca and London
- Eagleton T (1991) *The ideology of the aesthetic*. Blackwell, London
- Eire CMN (1986) *War against the idols: the reformation of worship from Erasmus to Calvin*. Cambridge University Press, Cambridge
- Eisenberg RL (n.d.) *The Israeli Flag: blue and white, and a symbol of the Jewish State*. My Jewish Learning. <https://www.myjewishlearning.com/article/israeli-flag/>
- Elliott MC (2001) *The Manchu Way: the eight banners and ethnic identity in Late Imperial China*. Stanford University Press, Palo Alto
- Eriksen TH (2007) Some questions about flags. In: Eriksen TH, Jenkins R (eds) *Flag, nation and symbolism in Europe and America*. Routledge, London, pp 1–13
- Eriksen TH, Jenkins R (eds) (2007) *Flag, nation and symbolism in Europe and America*. Routledge, London
- Eskridge WN (1989) The new textualism. *UCLA Law Rev* 37:621
- Etymology Online (n.d.) Banner. <https://www.etymonline.com/search?q=banner>
- Etymology Online (n.d.) Flag. <https://www.etymonline.com/search?q=flag>
- Etymology Online (n.d.) Ensig. <https://www.etymonline.com/search?q=ensign>
- Etymology Online (n.d.) Identity. <https://www.etymonline.com/word/identity>
- Etymology Online (n.d.) Sign. https://www.etymonline.com/word/sign?ref=etymonline_crossreference#etymonline_v_23500
- Etymology Online (n.d.) Signal. <https://www.etymonline.com/search?q=signal>
- Etymology Online (n.d.) Standard. <https://www.etymonline.com/search?q=standard>
- Everaert-Desmedt N (2011) Peirce's semiotics. In: Hébert L (ed) *An introduction to applied semiotics: tools for text and image analysis*. Routledge, London. www.routledge.com/9780367351120
- Foucault M (1995) *Discipline and punish: the birth of the prison* (trans: Sheridan A). Vintage Books, NY
- Foucault M (2008) *Security, territory, population: lectures at the College De France, 1977–78* (trans: Burchell G). Palgrave MacMillan, London
- Galadza P (1991) Restoring the icon: reflections on the reform of byzantine worship. *Worship* 65:238–255
- Gerbaudo P (2017) *The mask and the flag: populism, citizenism, and global protest*. Oxford University Press, Oxford

- Grainger J, Declercka M, Marzoukiab Y (2017) On national flags and language tags: effects of flag-language congruency in bilingual word recognition. *Acta Psychologica* 178:12–17
- Gude O (2008) Aesthetics making meaning. *Stud Art Hist* 50(1):98–103
- Hill A (1982) Hitler's flag: a case study. *Semiotica* 38(1):127–138
- Huntington SF (2011) *The clash of civilizations and the remaking of world order*. Simon & Schuster, New York
- Huntington SF (2004) *Who are we?: The challenges to American national identity*. Simon and Schuster, New York
- Husserl E (1936) *The crisis of European sciences and transcendental phenomenology: an introduction to phenomenological philosophy*. Northwestern University Press, Evanston (1970)
- Husserl E (1973) *Experience and judgement: investigations in a genealogy of logic* (trans: Churchill S). Northwestern University Press, Evanston
- Janssens F (2014) *How colours unite us all: identity color codes*. BIS Publishers, London
- Jiang Z (1997) *Hold high the great banner of Deng Xiaoping thought to push the socialist cause of socialism with Chinese characteristics forward into the 21st century* (Chinese Edition). PPHCN, Beijing
- Joffre T (2020) Iranian protesters refuse to walk on US, Israeli flags – watch, *The Jerusalem Post* (13 Jan. 2020). <https://www.jpost.com/Middle-East/Iranian-protesters-refuse-to-walk-on-US-Israeli-flags-613944>
- Kantorowicz E (1957/2016) *The King's two bodies: a study in Mediaeval political theology*. Princeton Classics, Princeton
- Karl B (2014) Silk and propaganda — two Ottoman silk flags and the relief of Vienna, 1683. *Text Hist* 45(2):192–215
- Kemmelmeir M, Winter DG (2008) Sowing patriotism, but reaping nationalism? Consequences of exposure to the American flag. *Polit Psychol* 29(6):859–879
- Kent B (2001) Flag signalling at sea. *Proceedings XIX International Congress of Vexillology*, pp 187–192. <http://www.flaginstitute.org/pdfs/Barrie%20Kent.pdf>
- Laughton JK (1879) *The heraldry of the sea: —ensigns, colours, and flags*. Royal United Services Institution (RUSI) J 23(99):116–148
- Lee J, Berenthal M, Whisenant W et al (2010) NASCAR: checkered flags are not all that are being waved. *Sport Mark Q* 19(3):170–179
- Lindauer MS (1969) Color preferences among the flags of the world. *Percept Mot Skills* 29(3):892–894
- Lodge RC (1920) Reality and the moral judgment in Plato. *Philos Rev* 29(5):453–475
- Löhndorf B, Diamantopoulos A (2014) Internal branding: social identity and social exchange perspectives on turning employees into brand champions. *J Serv Res* 17(3):310–325
- Long G (1999) The written story: toward understanding text as representation and function. *Vetus Testamentum* 49(2):165–185
- Marvin C, Ingle DW (1999) *Blood sacrifice and the nation: Totem rituals and the American flag*. Cambridge University Press
- Matjunin S (2000) The new state flags as the iconographic symbols of the post-Soviet space. *Geo J* 52(4):311–313

- Mamadouh VD (1998) Geopolitics in the nineties: one flag, many meanings. *Geo J* 46(4):237–253
- Manning JF (2005) Textualism and legislative intent. *Va Law Rev* 91:419
- Molot JT (2006) The rise and fall of textualism. *Columbia Law Rev* 106:1–60
- Mayer KE (1993) The war of the flags (editorial notebook). *The New York Times* 21 Oct., p 30
- Müller M (2013) Text, discourse, affect, and things. In: Dodds K, Sharp J (eds) *The Routledge research companion to critical geopolitics*. Routledge, New York, pp 49–68
- Nadler B (2016) Where do flags come from? Since ancient times, civilizations have carried staffs, crests, and banners to declare their identities. *An Object Lesson*. *The Atlantic* (14 June 2016). <https://www.theatlantic.com/health/archive/2016/06/happy-flag-day/486866/>
- Newman JI (2007) Old times there are not forgotten: sport, identity, and the confederate flag in the Dixie South. *Sociol Sport J* 24(3):261–282
- Nietzsche F (1908/1878) *Human all too human: a book for free spirits* (trans: Harvey A). Charles H. Kerr & Co. Chicago. <https://www.gutenberg.org/files/38145/38145-h/38145-h.htm>
- Oaks DH (2012) Hold the banner high, commencement address delivered at Brigham Young University 19 April 2012. <https://speeches.byu.edu/talks/dallin-h-oaks/hold-the-banner-high/>
- Peking Review (1966) Hold high the great red banner of Mao Tse-tung's thinking; actively participate in the great socialist cultural revolution. *Peking Review* 9 (18):5–10 (April 29, 1966). <https://www.marxists.org/subject/china/peking-review/1966/PR1966-18e.htm>
- People's Canada Daily (1977). Hold high the bright red banner of Marxism-Leninism and Proletarian internationalism. *People's Canada Daily New* 7(220), September 14, 1977. <https://www.marxists.org/history/erol/ca.firstwave/cpc-china-rally.htm>
- Vallas SP, Cummins ER (2015) Personal branding and identity norms in the Popular Business Press: enterprise culture in an age of precarity. *Organ Stud* 36(3):293–319
- Pi-Sunyer O (1995) Under four flags: the politics of national identity in the Barcelona Olympics. *PoLAR: Polit Leg Anthropol Rev* 18(1):35–56
- Philbrooke v. Glodgett* (1975) 421 U.S. 707
- Pulleyking M (2005) Flying the flag in Church: a tale of strife and idolatry. *Leaven* 13(4):1–5
- Real Academia Española (1970) *Diccionario de la Lengua Española*. Editorial Espasa-Calpe, Madrid
- Roberts DA (1971) The orange order in Ireland: a religious institution? *Br J Sociol* 22(3): 269–282
- Rorty R (1981) Nineteenth century idealism and twentieth century textualism. *The Monist* 64(2):155–174
- Rosado Haddock GE, Ortiz Hill C (2000) *Husserl or Frege? Meaning, objectivity, and mathematics*. Open Court, Chicago and LaSalle

- Roy S (2006) “A symbol of freedom”: the Indian flag and the transformations of nationalism, 1906–2002. *J Asian Stud* 65(3):495–527
- Santino J (1992) Yellow ribbons and seasonal flags: the folk assemblage of war. *J Am Folklore Soc* 105(415):19–33
- Smith W (1975) *Flags through the ages and across the world*. McGraw-Hill, New York
- Smith W (1999) American perspectives on heraldry and vexillology. *Raven: J Vexillol* 6:41–53
- Tepora T (2008) Redirecting violence: the Finnish flag as a sacrificial symbol, 1917–1945. *Stud Ethn Natl* 7(3):153–170
- U.S. v. American Trucking Association (1940) 310 U.S.: 534
- Uspensky B (1976) *The semiotics of the Russian icon*. The Peter de Ritter Press, Lisse, Belgium
- Vance E (1991) Semiotics and power: relics, icons, and the “Voyage de Charlemagne à Jerusalem et à Constantinople.” In: Brownlee K, Scordillis Brownlee M, Nichols S (eds) *The New Medievalism*. Johns Hopkins, Baltimore, pp 226–249
- Varga S (2013) The politics of nation branding: collective identity and public sphere in the neoliberal state. *Philos Soc Criticism* 39(8):825–845
- White NP (1976) *Plato on knowledge and reality*. Hackett, Indianapolis
- Wilson A (2005) *Ukraine’s orange revolution*. Yale University Press, New Haven
- Wolf P (2000) *Ordem e Progresso: Origem e Significado Dos Símbolos da Bandeira Nacional*. *Brasileira Revista Da Faculdade De Direito, Universidade De São Paulo* 95:251–270. <https://www.revistas.usp.br/rfdusp/article/view/67468>
- Xi J (2017) “Hold High the Banner of Development”: Xi Jinping Keynote Address to Meeting of BRICS Leaders 中国国家主席习近平出席开幕式并发表主旨演讲, reproduced in *Law at the End of the Day* (3 September 2017). <http://lbackerblog.blogspot.com/2017/09/hold-high-banner-of-development-xi.html>
- Xie HY, Boggs DJ (2006) Corporate branding versus product branding in emerging markets. *Mark Intell Plan* 24(4):347–364
- Zhang T, Feng H, Han B (2018) Red color in flags: a signal for competition. *Color Res Appl* 43:114–118
- Zickler M (2016) *Luther and the Iconoclasts*, Lutheran Reformation.Org (Blogpost 9 June 2016). <https://lutheranreformation.org/history/luther-and-the-iconoclasts/>
- Znamierowski A (2007) *The world encyclopedia of flags & heraldry*. Anness Publishing, London

Larry Catá Backer is the W. Richard and Mary Eshelman Faculty Scholar and Professor of Law & International Affairs at the Pennsylvania State University (B.A. Brandeis University; M.P.P. Harvard University Kennedy School of Government; J.D. Columbia University). His research focuses on the theory and meaning of governance. He teaches courses in constitutional law, corporate law (including multinational corporations), transnational law, and International Organizations. He has lectured in Asia, Europe, and Latin America on issues of the theory of meaning

in law. His publications include *Lawyers Making Meaning: The Semiotics of Law in Legal Education* (Springer 2013), and *Signs in Law, A Source Book* (Springer 2014) (both with Jan Broekman). Shorter essays appear on his essay site, “Law at the End of the Day.”

A Trichotomy of Meanings: To Know, to Think, to Dream in Colors and Flags

L'esprit de l'homme a trois clefs qui ouvrent tout:

Le chiffre, la lettre, la note.

Savoir, Penser, Rêver

Tout est là (Hugo 1840, Préface)

On écrit toujours pour donner la vie,

pour libérer la vie là où elle est emprisonnée,

pour tracer des lignes de fuite (Deleuze 1990, p. 192)

Abstract

The flag, as a visual representation of national understanding and public memory, textualizes the materiality of a people through the collective identification of color. Through color, the flag is uniquely understood as a semiotic of history, culture, evolving politics, and historical events that shape the understandings of the present. This volume examines the complexity of meaning arising from flags from all over the world. Through the medium of color, the flag carries distinct, defined, yet disputed spatiotemporal representations of people and place. Visually, the colors on flags represent a variety of understandings and practices of law contributing to the collective discussions of nation and identity, past, and present.

Keywords

Color; Flags; Nation; Identity; Public memory; Semiotics; Legal semiotics

1 Introduction

In our research project on *Flags, Color, and the Legal Narrative: Public Memory, Identity, and Critique*, the identification of “identity” employs culturally specific color codes and images that conceal assumptions about members of a people comprising a nation, or a people within a nation. Flags narrate constructions of belonging that become tethered to negotiations for power and resistance over time and throughout a people’s history. Bennett (2005, p. 172) defines identity as “the

imagined sameness of a person or social group at all times and in all circumstances.” While such likeness may be imagined or even perpetuated, the idea of sameness may be socially, politically, culturally, and historically contested to reveal competing pasts and presents.

Visually evocative and ideologically representative, flags are recognized symbols fusing color with meaning that prescribe a story of unity. Yet, through semiotic confrontation, there may be different paths leading to different truths and applications of significance:

Write, form a rhizome, increase your territory by deterritorialization, extend the line of flights to the point where it becomes an abstract machine covering the entire plane of consistency (Deleuze and Guattari 1987, p. 11).

Knowing this and their function, Wagner and Marusek have decided to investigate these transmitted values over time and space. Indeed, flags may have evolved in key historical periods, but contemporaneously transpire in a variety of ways:

Modern civilized societies are defined by a process of decoding and deterritorialization. But what they deterritorialize on the one hand, they reterritorialize on the other (our translation—Deleuze and Guattari 1973, p. 306).

This truly international interdisciplinary edited volume reflects modern societies’ heterogeneity and its trail of activities engaging *Flags, Identity, Memory: Critiquing the Public Narrative through Colors*. Studying the visual and hidden discursive implications on “public narrative through color” sheds light on semiotic, philosophical, and legal issues, as well as impacts on our legal cultures, traditions, and systems. Taking into account space and time, Wagner and Marusek propose a reflection on the functions, roles, and limits of these visual and discursive representations, as well as impacts, respects, and obligations deriving from them.

Our thirty-one contributors hail from all over the world, from the East to the West, from the North to the South. With each his/her own distinctiveness and field of expertise, we have therefore investigated these transmitted values by addressing the following questions:

- Which values are being transmitted?
- Have their colors evolved through space and time?
- Is there a shift in cultural and/or collective meaning from one space to another?
- What are their sources?
- What is the relationship between law and flags in their visual representations?
- What is the shared collective and/or cultural memory beyond this visual representation?

Visual studies are a system of signs that enables the lawyer, the linguist, the artist, the reader, and even the viewer to analyze the public space in a semiotic sense. Signs resemble a web (Eco 1976), an open texture (Hart 1976). Signs have plurality in meaning (Bhatia et al. 2005), are situated in flux spaces (Wagner 2011), and govern our understandings of the past and present (Marusek 2014). These visual signs form part of what we could consider an abbreviated sign system, which needs to be