

State Symbols and Multiculturalism

Jacob T. Levy

American voters and the American media paid renewed attention to the Confederate battle flag during the early months of 2000. The NAACP-organized boycott of South Carolina over that state's flying of the battle flag over its statehouse mixed with the Republican presidential primaries to send the flag issue into the headlines. In Texas, then-governor George W. Bush tried to rally conservative voters to help him shut down a challenge from Arizona Senator John McCain by insisting that the fate of the flag was a matter to be decided only by the people of South Carolina. McCain initially criticized the flag, then offered a stiff and formal endorsement of the purely-a-state-matter position. (After the primaries ended he admitted that the latter endorsement had been a lie.) McCain's own South Carolina campaign chair was a leading member of the so-called "Southern Heritage" movement, which is dedicated to celebrating the memory of the Confederacy. Along with Bob Jones

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University, the Confederate symbols and nostalgia dominated the national media's coverage of the primary and became a synecdoche for the story that South Carolina was politically extremist, backward, and bigoted. Eventually, in a compromise rejected by the NAACP, the Confederate flag was taken off the capitol building but transferred to another site on the capitol grounds. The long-running disputes over the battle flag continue. Georgia, for example, continues to include the battle flag as a portion of its official state flag, as it has since shortly after the U.S. Supreme Court decided *Brown vs. Board of Education*.

Disputes Over Symbols

These ongoing disputes from across the South are echoed in the American West. Gerard Baker was the first American Indian to serve as National Parks

Service superintendent of the Little Big Horn National Battlefield (renamed as such after being called the Custer National Battlefield from 1946 until 1991). His half-decade in that office ended in 1997 after he tired of near-constant conflict with enthusiasts for General George Armstrong Custer, whose forces were wiped out by a Sioux and Cheyenne army in 1876. The renaming was the first step in shifting the site away from a celebration of Custer toward a commemoration of those who died on both sides; the same bill also authorized a monument to the Indian dead to stand near the existing monument to Custer. Baker tried to push that process farther, allowing Indian rituals of remembrance to be practiced on the battlefield and overhauling the content of the site's tours and educational programs. The "Custer buffs" protested at every stage, insisting that the process was politically-correct pandering to an ethnic minority. (One supporter of the changes, U.S. Representative Pat Williams of Montana, observed that "as far as we can tell, it was the only battlefield named after a person, and the only one named after the loser, at that. *That* was political correctness run amok.") Eventually Baker requested and received a transfer to another park. Ground has been broken for the Indian memorial, but construction remains stalled due to a lack of funds.

Disputes like these are not unique to the United States. South Africa must grapple with how to treat holidays, statues, and other public symbols that honor an Afrikaaner history of violence against and oppression of blacks. The Bosnian government has faced paralyzing disagreement over what should go on a flag, an official seal, and even license plates. Indian Muslims vigorously protested the changing of Bombay's name to Mumbai by a local government dominated by Hindu nationalists, interpreting the new name as a celebration of linguistic and religious chauvinism. In 1994 Australia endured riots and the firebombing of churches, community centers, and government buildings in a battle largely over what name the state would use to refer to Macedonians in the country. (The then-Prime Minister, trying to placate Greek Australians after his government extended diplomatic recognition to the Former Yugoslav Republic of Macedonia, adopted the phrase "Slav-Macedonians" and attempted to foist it on public



Protesters drape a Confederate flag on the steps of the South Carolina Statehouse in response to the lowering of the Confederate flag from the Statehouse dome on July 1, 2000. For some a symbol of slavery and others a tribute to their Southern heritage, the Confederate flag had flown from the top of the Statehouse dome for 38 years. (AP Wide World Photo/Rick Bowmer)

institutions and broadcasters.) States adopt names for regions, cities, ethnic groups, and even themselves; they adopt flags and anthems; they commemorate the past through holidays, parks, proclamations, statues, and monuments. All of these symbolic state actions express an official viewpoint about the character of the

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state, its culture, and its history. Disputes over that character, over who is a member of the state, over how to interpret the way the state gained control over its current lands and people, over what is worth celebrating in the state's history, are all reflected in disputes over those symbols.

In none of these cases are any rights or resources, any property or powers, directly at stake. The state actions do not limit any person's liberty or seize any person's goods. As such, they seem to fall outside the scope of theories of justice, as those are usually understood. No one in particular is harmed by them in a way, for example, that would give standing for relief by a court in an Anglo-American judicial system. (There are exceptions—most conspicuously, U.S. courts are willing to strike down the state adoption of some religious symbolism as violating the Establishment Clause of the First Amendment. But ordinarily, state symbols may not be challenged in court.)

Political matters may fall outside the scope of justice, however, and still be within the scope of a broader political morality. Some state symbols are morally preferable to others; some official speech is morally wrong. Standards for judgment are difficult to come by, though, especially in a political culture (like America's) accustomed to translating all serious moral

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disputes about politics into the language of rights violations and constitutionality.

In his comparative study of ethnic conflict, political scientist Donald Horowitz finds that “symbolic claims are not readily amenable to compromise. In this, they differ from claims deriving wholly from material interest. Whereas material advancement can be measured both relatively and absolutely, the status advancement of one ethnic group is entirely relative to the status of others.” Not only are disputes over state symbols often zero-sum; they are sometimes all-or-nothing. With so little room for compromise, there is often little incentive for moderation.

Ethnic conflicts are not always or primarily about symbolism, even when words and symbols are part of what’s at stake. Flags and coats of arms often count for much less than concrete matters: who has the right to

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use which language when? Who controls which land? Which cultural traditions will be banned, which ones tolerated? Will constitutional arrangements allow for any self-government by minorities? Members of minority cultures and ethnic groups are imprisoned for speaking their native languages, dispossessed of their lands, expelled and made into refugees, and sometimes enslaved, raped, or slaughtered. Nor are these high stakes limited to obviously-explosive places like the Balkans or the African Great Lakes; there are live questions of justice from indigenous land rights to the toleration of minority religious practices in most western liberal democracies. Some academics say that questions of recognition and respect, not questions of rights and resources, are at the heart of ethnic politics; but this thought seems to me a luxury of immersion in educational institutions, which have more direct control over curricula, mottoes, and holidays than over legal liberties and powers.

But still, such concrete questions of rights and resources do not make up the whole of ethnic and cultural politics. Issues of identity and recognition, symbolic issues, play an important part as well; and there is no general tendency for symbolic disputes to be less intense, to be taken less seriously by the participants. Liberalism is right to give rights and resources moral priority over recognition and symbols; but that should not prevent liberals from seeing the tremendous importance symbolic disputes can have to their participants. Liberalism, and a liberal state, ought to come to grips with the moral importance of symbolism.

Responses to Symbolism

We should not, however, detach our moral understanding of state symbolism from our moral understanding of concrete injustices committed against subordinated ethnic groups. The participants in disputes over state symbols are often all too aware of the close relationship between the two. State symbols often celebrate and commemorate a history of cruelty, injustice, and exclusion. They often aim—or obviously

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invite the charge that they aim—at symbolically excluding a minority from full membership in the polity. They suggest that the polity's past wrongs against a group are precisely what makes the polity worthy of celebration and loyalty.

What's worse, they make this suggestion in the voice of the citizenry, including members of the wronged group. When the state speaks (that is, when state officials adopt a flag, name a place or a group, write the text on a statue or the educational materials for a national park, and so on) it claims to do more than just offer an opinion into the marketplace of ideas. It claims to speak on behalf of all its members. Hobbes long ago noticed that built into the idea of authorization, and therefore the idea of authority, was the claim that the citizens "authored" the state's actions. The idea has even more resonance when the authority's actions consist of words. Democratic states, especially, claim that their words and actions in some sense issue from the people as a whole. Whether and to what degree these claims are justified are questions that may be set aside for present purposes. But the fact that they are made (and widely believed) makes certain state speech particularly objectionable. Sometimes state speech or symbols that glorify (for example) past state violence seems like an implicit threat to unleash the violence again. But even without that component, citizens ought not to be insulted or degraded by an agency that professes to represent them and to speak in their name.

Although many disputes over ethnic and cultural symbolism are strictly zero-sum, not all of them are. Symbolic status is not *entirely* relative to the status of others. Suppose one's culture is routinely degraded and humiliated, pronounced to be primitive and bestial. Then policy changes, and members of that particular culture are now considered to be human. A gain in status may impose a corresponding status loss for others, since the other group's sense of its own *superiority* may be diminished. But commonly the previously

superior group is not degraded in turn. One group's liberation from humiliation does not require another group's humiliation. Now, none of this is true about the symbolism of national character. A state becomes officially binational only at the expense of its being national. Malays or Fijians gain symbolic priority only at the expense of Chinese-Malaysians or Indian-Fijians. But minimal symbolic recognition need not be zero-sum in quite the same way.

Advocates of a strong form of what philosopher Charles Taylor has called "the politics of recognition" suggest that public invisibility is also a kind of symbolic exclusion and degradation. When there are no public monuments that commemorate an ethnic group's history, when no official holidays are established in honor of any member of a given minority, when public buildings are all named for members of the culturally dominant group, then, too, the state has humiliated some of its citizens and has committed a moral wrong. This line of argument is sometimes justified, but it is a hazardous one. It invites a kind of political pandering and one-upsmanship ("Anything less than proportionality, or even parity, in official holidays constitutes invisibility!")

Much official symbolism is inevitably part of a spoils system, handed out in an attempt to appeal to a particular constituency or interest group. In the United States, perhaps the purest example of this kind of pork-barrel symbolism is the unending stream of official commemorative days, weeks, and months announced by Congress and other levels of government. Most people never know when National Goat Cheese Week or National Veterans of the Grenada Conflict Day come to pass; they are noted only in the

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Congressional Record and in lobbying-group newsletters. They provide an absurdly faint shadow of public recognition, since the public never knows they exist; the state speaks a word of praise to the constituency group, but no one else ever hears it. Yet lobbying groups continue to insist on these faux-commemorations, and Congress and state and local governments continue to devote time and resources to discussing and establishing them.

Insisting on quotas for public symbolism threatens to reduce all symbolism to that level; it diminishes whatever value public symbolism might have. Indeed it is self-defeating. The affirmation and recognition that public commemoration confers is dependent on

the lingering thought that the commemoration is provided for some public reason and not for the purpose of providing affirmation. When that thought ceases to linger, as it long since has in the case of the pointless official days and weeks, no real recognition is provided. As morally different as public and private speech sometimes are, there is an important similarity. The coin of public honor can be debased, just like the coin of praise from a person who lavishes the same compliments on all (or from the person whose kind words for the intelligence or charm of others are uncorrelated with their intelligence or charm but highly correlated with their wealth, or their social standing, or their ethnicity).

A strong politics of recognition might also endorse a rule that simply allows each group to define its own labels and symbols. Outsiders, and the state, should accept each group's claims about its own name, symbols, and so on. While this may answer the question of "who decides?" across a certain range of cases, it does not dampen the conflicts over the decisions. It is just not the case that what one group calls itself is of no concern to another. The crux of the conflict between Greeks and Macedonians (in Australia as in the Balkans) was that two groups were both laying claim to the word "Macedonian," with Greece maintaining that "Macedonian" described only a subset of "Greek." What if white Protestant Americans tried to reserve for themselves the label "American," or the name "God's people?" I do not suggest that either move is likely; but the possibility illustrates that one group's preferred name can easily be an insult to another. A liberal state cannot prevent persons from referring to themselves however they like; but it cannot simply adopt their preferred terms for its own usage. Moreover, cultural

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groups are too heterogeneous for us to assume that the name chosen by leaders or a majority will not be experienced as an insult by other members of the community.

Words Can Never Hurt Me?

Children are taught to say, "Words can never hurt me." Since symbolism does not affect any rights or resources of any person, some think that there can be nothing morally important to say about it, nothing worth disputing. Words, expressions, and symbols are not the stuff of justice or morality, or even of morally interesting politics. They are "only words." What stat-

ues are erected and what holidays are celebrated are inevitably arbitrary, but they fail to meet the threshold test of warranting moral praise or condemnation; they have no actual effect on individual persons. The justification would vary a bit, but this basic position might be embraced by anyone from a conservative opposed to "political correctness" to an Old Left socialist who finds symbolic disputes to be distractions from the serious business of economic politics.

To indicate what this position leaves out, consider this example: What if the United States Census Bureau adopted a racial epithet as its name for one of the racial categories into which it divides Americans? Even the vicious epithet used for so long against African-Americans is, after all, only a word. But it is a word that is tied up with a long history of violence, public and private. It is a word that is understood, by whites and blacks alike, to exclude blacks not just from full citizenship but from full humanity. Its use by a speaker with power or authority is nearly a threat. Leaving aside questions like whether it would be a rights violation or whether it would be legally justiciable, what reason could we possibly have for declining to say that it would be wrong for the state to adopt this epithet for common use? When we recall that the state professes to speak in the name of its citizens, "words can never hurt me" becomes an even more obviously insufficient response to such cases. One need not accept any claims about language constructing social reality or language forming the basis of oppression in order to think that *this speech would be wrong*. In the name of all of the citizenry, it would denigrate and (symbolically but painfully) attack a significant portion. In an allegedly authoritative voice, it would state that the history of injustice of which the word reminds blacks and whites alike was acceptable, even commendable.

"Words can never hurt me" has a bit too proud a place as an argument in American political culture. Sometimes civil libertarians suggest that words and expressions are immune from political and moral criticism in order to defuse the threat of censorship. Condemning another's speech is too quickly interpreted as a prelude to a violation of freedom of speech, and so supporters of freedom of speech sometimes retreat into moral relativism when faced with reprehensible forms of expression. Of course, *some* criticism of others' words *does* plausibly contain an implicit threat of censorship (for instance, Congressional hearings or resolutions about classes of private speech and expression—such as music lyrics). But citizens' moral criticism of state speech does not. It offers no threat of coercion, no threat to the diversity of expressed ideas, no threat to individuality, no threat to the democratic process.

Some liberals maintain that the state should not publicly endorse particular points of view, particular cultural identities, particular visions of the good life.

"Content neutrality" is a concept from the American constitutional jurisprudence of speech regulation, but might be elevated to a general liberal principle of state action and speech. Content neutrality, however, is a principle for evaluating an actor who referees speakers, not a principle for evaluating speech itself. No particular speech, expression, or symbol can be content neutral, so if the principle of content neutrality is applicable to state speech, that means the state may not speak. Liberal neutrality could be supposed to require that the state avoid official symbolism, which necessarily elevates some substantive claims about cultural communities and their worth over others.

The seemingly interminable disputes in the post-Dayton Bosnian state about national symbols—a flag, a coat of arms, a national anthem, even license plates—illustrate the appeal of this approach. Symbols which are Muslim, Serbian, avowedly multiethnic, or avowedly nonethnic are all unacceptable to some constituents and political leaders. None of the symbols are neutral. Both liberal neutrality and prudence might counsel abandoning the project of adopting *any* symbols of state. A long history of mutual abuses might leave little room for acceptable public commemoration. Fights over symbolism in any event have little incentive for moderation or compromise, and sometimes any choice of symbol seems designed to provoke some part of the population. Modern states are in the habit of having anthems, coats of arms, and the rest, but little is lost if they are sometimes forgone. I doubt that the principle of liberal neutrality ought to be extended so as to insist upon strict neutrality in all state speech and, therefore, forbid state speech. But prudence and a careful attention to avoiding provocation will sometimes counsel silence rather than a fight over what shall be said, what symbol chosen.

In the United States, official language laws with much bite have been held to violate the First Amendment. Most remaining official English proposals seek largely symbolic declarations. We cannot pretend that the state is linguistically neutral; English is and will remain the *de facto* language of state. But there seems little need for the symbolism of an official declaration, little reason for the state officially to endorse English. State silence would be better.

We are left with a standard that treats symbolic celebrations of past instances of ethnic violence, cruelty, and injustice as worthy of moral condemnation, while leaving most other cases of symbolism to the considerations of prudence. If a state cannot affirm each group on its own terms, it can at least refrain from celebrating wrongs against any of them. Humiliation is a debatable standard but must not be simply a subjective one; we (whoever we are evaluating a particular cultural dispute) must ask whether the person or people are right to feel humiliated. State symbols that celebrate a

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history of violence and cruelty against a particular group—say, the Confederate battle flag—are legitimately taken to be humiliating. So are the preambular statements in some states' constitutions that the state belongs to a particular ethnic group; the words may not strip anyone of citizenship, but they symbolically exclude from citizenship.

The Symbols of Slavery

The debates and disputes over the symbolic legacy of slavery in the United States are widespread and can be bitter. There has been considerable agitation for an official apology for slavery from the United States government. New Orleans has adopted a rule that public schools should not be named for slaveowners;

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this attracted international attention when a school named for George Washington was renamed. During the battle to integrate the public schools, some southern states resurrected the battle flag of the Confederate States of America as a symbol of their defiance; it flies over some state capitols to this day. Statues of Confederate leaders and monuments to the Confederate war dead dot the South. A statue of Queen Catherine of Braganza, which is supposed to stand overlooking New York's borough of Queens which was named for her, has been the subject of bitter controversy because some activists have charged her with profiting from the slave trade. This is false; indeed, Catherine left money in her will to be used to free slaves. She was linked to the slave trade only insofar as the two states of which she was royalty, Portugal and the United Kingdom, were at that time involved in it. Nonetheless, the dispute has gone on for years and continues to prevent the statue's placement.

The passage of time matters in symbolic disputes. Retaining the month-names of July and August does not at all connote official approval of the millennia-old wrongs committed by the Caesars, and no one (not republicans, not Jews or Christians, not the descendants of the Gauls) can reasonably claim to be humiliated or symbolically excluded from the polity because of it. Slavery was abolished a century and a third ago. However, American blacks did not attain full legal equality for a century after that. Violence against blacks was pervasive in the South for decades after slavery was abolished. And the upsurge in official

Confederate symbolism after *Brown vs. Board* confirms and cements the link between those symbols and their unjust history.

This history does not mean that every symbol at which some African-Americans take offense really is a humiliating endorsement of past injustice. There is a difference between celebrating figures for the war they fought to defend slavery (Robert E. Lee, Jefferson Davis) and celebrating figures who owned slaves but who are being celebrated for other reasons (George Washington). Similarly, the dispute over Queen Catherine shows that we should not simply defer to every activist who invokes a history of injustice. Once the facts become known, a statue of Catherine cannot rightly be interpreted as a celebration of slavery or of the slave trade.

On the other hand, the emphasis on slavery, and on not symbolically endorsing it, is justified. Even if the answers given in particular cases are wrong, the questions (does this state action symbolically celebrate or glorify a history of shameful wrongs?) are the right ones to ask. Avoiding such institutional humiliation and official endorsement of past cruelty no doubt seems like a minimal standard, compared with a full-blooded politics of recognition. But it is a minimal standard that would demand quite widespread changes in official symbolism, not least in the United States itself.

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Some of the themes of this present essay are discussed further in Jacob T. Levy, *The Multiculturalism of Fear* (Oxford University Press, 2000).

Sources: Mike Tobin, "Indian Memorial Renews Battle at Little Bighorn," *TimesPicayune* (August 25, 1996); Donald Horowitz, *Ethnic Groups in Conflict* (University of California Press, 1986). For an examination of related legal problems, and more generally for an exploration of the present issues that focus on commemorations of the Confederacy, see Sanford Levinson, *Written in Stone: Public Monuments in Changing Societies* (Duke University Press, 1998).

