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The Impact of Flag Desecration on Social Justice Movements: The Case of Occupy SLU

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Elizabeth Finocchiaro and Tommy Lucas are doctoral candidates at Saint Louis University (SLU) in the School of Education. Whitney Linsenmeyer is an Instructor in Nutrition and Dietetics at SLU. During the events of Occupy SLU Linsenmeyer was a doctoral student in the School of Education. Lucas worked closely with students during the events of Occupy SLU, but was not an active participant. His primary research focuses on impact and outcome assessments of higher education institutions and longitudinal assessments after crisis incidents. Linsenmeyer and Lucas have published work related to Occupy SLU in the Western Journal of Black Studies, the Journal of College Admission, and the International Journal of Teaching and Learning in Higher Education.

In matters of politics and culture, controversy all too often produces a divisive “us-versus-them” mentality that tends to weaken rather build up the relationships that magis requires. In their article, Finocchiaro, Linsenmeyer, and Lucas explore the use of the American flag by protestors during Occupy SLU, the ways that use was divisive, and whether that use advanced or impeded the cause of the protestors. The article concludes with a reflection on flag desecration by Lucas, a U.S. Army veteran who has worked closely with SLU’s student veterans.

Abstract

The unrest in Ferguson, Missouri brought about many points of contention that evolved into a collective, dualistic mindset: an “us-versus-them mentality” that set community members at odds with each other. A notable instance of divisiveness was the desecration of the American flag by some demonstrators, the merit of which is hotly debated. Some see the desecration of the flag as a powerful means of protest, a literal destruction of a perceived symbol of institutional oppression. Others see it as the ultimate insult to our nation and our nation’s service members who volunteer to uphold the very foundations that protect demonstrators. In the months following the unrest, the demonstrations made their way onto the campus of Saint Louis University, a Jesuit institution in St. Louis, Missouri, organizing the Occupy SLU movement. In the aftermath of this movement, researchers asked students to share their experiences. This research has its origins in that study, focused upon the student experiences on and near campus. This paper provides a brief overview of the historical foundations of flag desecration and evaluates the perceptions of students concerning the use of flag desecration as a tactic during the Occupy SLU movement.



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Being an American...is based on the pledge to embrace the abstract ideals of liberty, equality and popular sovereignty, but liberty and equality frequently conflict with each other. And both can be threatened by a popular majority.¹

Adolfo Nicolas, S.J.

Introduction

After the killing of Michael Brown by Officer Darren Wilson, the unrest in Ferguson, Missouri became a catalyst for national conversations about the treatment of black people throughout the United States. On college campuses nationwide, student activists became the voice of growing social justice movements such as Black Lives Matter. One instance of this occurred at Saint Louis University (SLU), a Jesuit institution in Saint Louis, Missouri. In the aftermath of the Ferguson grand jury decision, a collection of community members united with a group of university faculty, staff, administrators, and students. The group, at times as large as 1,000 individuals, assembled on campus, occupying a common area near the university's clock tower.² This movement was coined Occupy SLU. University administration, in the vein of the Jesuit mission, embraced this occupation, provided professionals to ensure the demonstrators' safety, and opened the university's church to those who sought nourishment and refuge from the bitter temperatures. The Occupy SLU movement comprised prayer groups, open fora, and presentations by invited speakers. The university also encouraged civic discussion between the administration and the demonstrators. After successful mediation, the university and members of the Occupy SLU movement signed what became known as the Clock Tower Accords: a list of 13 reforms to which the university agreed, marking its dedication to align their action with the university's mission.³

The discourse surrounding the civil unrest was inevitably fraught with deep-seated emotions and opinions. Individuals on both sides — those maintaining the innocence of Darren Wilson and those arguing that his actions indicate that systemic racism exists — flexed their academic muscles and engaged in heated debate. In fact, the demonstrations were often fodder for debate. Such is the example with the use of flag

desecration as a means of protest. This protest tactic has been used on occasion and has been met with a notable degree of scrutiny. Over the years, the burning of the American flag has become a hotly contested issue and legislation has periodically been introduced to outlaw it.⁴ During the Occupy SLU movement, flag desecration ignited both sides of the issue. Demonstrators hung and displayed the U.S. flag upside down, eventually dragging it through the mud and repeatedly stepping upon it. This act of desecration began a new conversation about whether the actions of the individual were helpful for the movement or if it hurt the movement as a whole. This is a particularly interesting question as many of the supporters of the Occupy SLU movement had family members that were military affiliated service members, military veterans, or first responders in the greater St. Louis area. Not surprisingly, desecration of the flag was upsetting for many of those participants. Similar actions exacerbated onlookers and fueled tensions throughout the greater St. Louis community as demonstrators went as far as burning the flag as a tactic to demonstrate distrust and anger with the situation.

Demonstrations on college campuses are far from novel. Historically, social justice movements have used similar means of agitation to garner attention from the public. In just the last century, there have been periods of public unrest which have spilled over onto campuses in the form of sit-ins, walk-outs, and other public displays of protest similar to the unrest in Ferguson. This paper aims to discuss the history and legality of flag desecration and evaluate student perceptions of flag desecration as it pertains to the Occupy SLU movement. We end with a poignant student reflection on fostering critical thought as it pertains to flag desecration and with the personal experience of one of the authors during the Occupy SLU movement.

The Historical Legality of Flag Desecration

The United States Supreme Court presided over one of the earliest judicial cases concerning the issue of flag desecration. A 1907 case challenged the constitutionality of a Nebraska law banning the desecration of the American flag, in particular by means of using the symbol for the purposes of

advertising.⁵ During those proceedings, Justice John Marshall Harlan II referred to the historical significance of the flag and the punitive response that traditionally succeeded its disrespect. Harlan explained, “It has often occurred that insults to a flag have been the cause of war, and indignities put upon it, in the presence of those who revere it, have often been resented and sometimes punished on the spot.”⁶ The Court ruled that states do, indeed, have the right to ban flag desecration. The sentiment against flag desecration was further bolstered when, in the 1920s, the Flag Code of the United States was drafted and gained popularity. This code outlined what was to be considered the proper use and treatment of the American flag. President Franklin D. Roosevelt would later sign a version of this code into law.⁷ However, while the code outlined how the flag was to be treated, it did not include punitive measures to be enforced should the code not be followed.⁸

Nearly 70 years after *Halter v. Nebraska*, another case challenging the legality of flag desecration was argued in front of the Supreme Court. In 1984, authorities arrested Gregory Johnson after he set fire to an American flag outside of the Republican National Convention in Dallas, Texas.⁹ Johnson was charged with breaking a Texas penal code forbidding flag burning. Johnson appealed the charges and the case was eventually elevated to the Supreme Court. In a five-to-four decision, the Supreme Court ultimately ruled in Johnson’s favor. In the opinion of the Court, delivered by Justice Brennan, the court held that Johnson’s conduct was a means of expressive communication, a legitimate form of speech, and thus was protected by the First Amendment.¹⁰ Furthermore, the opinion elaborated upon the symbolic nature of the flag. Brennan maintained that the government of the United States may not mandate citizens’ sentiments on any issue and thus may not prescribe an obligatory meaning to the flag. In contrast, the dissenting opinions were predicated upon the flag’s symbolic and historical importance. Justice Rehnquist asserted, “For more than 200 years, the American flag has occupied a unique position as the symbol of our Nation, a uniqueness that justifies a governmental prohibition against flag burning in the way respondent Johnson did here.”¹¹

Not surprisingly, the *Texas v. Johnson* decision did not bode well with many Americans. Just months after the ruling, Congress passed the Flag Protection Act of 1989, which banned desecration of the flag.¹² The passing of this legislation (while it had yet to be officially signed into law by President Ronald Reagan) ignited protests from those who saw it as an affront to citizens’ freedom of speech. Demonstrators took to the streets to protest the law. Shawn Eichman was one of those demonstrators and expressed discontent by burning a flag on the steps of the Capitol in Washington DC. Eichman was arrested and again the Supreme Court was confronted with, and addressed, the constitutionality of flag desecration. Ultimately, the Court upheld their decision from *Texas v. Johnson*, deeming Eichman’s actions protected speech.¹³

The conversation surrounding flag desecration did not cease following *U.S. v. Eichman*, and it remains a hotly debated topic to this day. As recently as 2005, an anti-flag desecration resolution (H.J.Res.10) nearly made it through Congress.¹⁴ Three years later a Missouri man was arrested after he publicly burned a flag.¹⁵ These charges were later dropped after years of judicial proceedings. In 2016 at the Republican National Convention in Cleveland, Ohio, a flag burning was organized by communist party activists and was met with harsh criticism.¹⁶ In November of 2016, President Elect Donald Trump tweeted, “Nobody should be allowed to burn the American flag – if they do, there must be consequences – perhaps loss of citizenship or year in jail!”¹⁷ Thus, it is no surprise that desecration of the flag during the unrest in Ferguson and on the campus of Saint Louis University would reignite the fierce debate about citizens’ rights.

The First Amendment

The decisions by the Supreme Court in both *Texas v. Johnson* and *U.S. vs. Eichmann* are predicated on upholding the First Amendment of the United States Constitution. The First Amendment of our Bill of Rights reads,

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the

right of the people peaceably to assemble, and to petition the Government for a redress of grievances.¹⁸

If the Constitution clearly guarantees a person's right to desecrate the flag of their country as a means of expression, why then is there such ardent opposition to the act? The public's unwavering outrage over flag desecration is an interesting phenomenon. It can be argued that the deep indignation towards flag desecration stems from its powerful symbolic nature. Consider the esteem to which the nation holds the flag. Each day, millions of children across the country stand, cover their hearts, and pledge their allegiance to the flag. Similarly, each June 14th Americans honor the flag on Flag Day, a federally-recognized holiday.¹⁹ Perhaps one of the most explicit explanations of the flag's symbolic nature comes from a 1952 Flag Day speech by E. F. Hutton. Hutton declared,

The Flag [*sic*] is many things. It is a mark of identification of ships at sea and of armies in the field. It is a means of communication. When you see our Flag [*sic*] in front of a home, it says for all the world to read, "Here lives a family that is American in spirit as well as in name." The Flag [*sic*] is a mirror, reflecting to each person his own ideals and dreams. It is a history. Its thirteen stripes and forty-eight stars embrace a record written greatly during these past 176 years.... It is an aspiration of what small children want their lives to be.... It is a ribbon of honor for those who have served it well — in peace and war. It is a warning not to detour from the long road that has brought our country and its people to a degree of prosperity and happiness never even approached under any other banner.²⁰

When we consider Hutton's explanation and perhaps even our own personal degree of reverence for the flag, it stands to reason that showing it disrespect would likely have a profound impact and provoke disdain.

The events that took place during the Occupy SLU movement are illustrative of both the

admiration and disdain that people have for the flag, simultaneously. While no flags were burned on campus during the Occupy SLU movement, there were instances of flag desecration. Furthermore, throughout the various neighborhoods in the greater St. Louis area demonstrators did burn flags. Nevertheless, our body of research stems directly from the student perceptions of flag desecration during the Occupy SLU movement. Our expansive definition of flag desecration comes directly from the U.S. Code, 1996 Title 36, Chapter 10, Section 176, Respect for the flag.²¹ The code dictates the proper use of the flag, which includes preventing the flag from touching the ground and displaying it upright at all times. Thus, displaying the flag upside down or allowing it to touch anything beneath it (e.g., the ground, the floor, or water), constitute flag desecration. While we use this definition, it is important to note that this code serves as a recommendation but does not recommend any punitive repercussion.

Methodology

Research on the perceptions of flag desecration emerged as a latent theme from a larger study on the student perceptions of the Occupy SLU movement and the unrest in Ferguson. Our study utilized a mixed-methods phenomenological design to investigate student perceptions of their experiences during the 2014-2015 academic year. Participants were recruited from the Saint Louis University student body, and the university's Institutional Review Board approved the study. Data collection involved a brief 11-question survey followed by an in-depth, semi-structured interview. While interviewers did not ask any specific questions about flag desecration, the theme emerged either during the interview or during our final question, which asked students to discuss, "What sticks out most in your mind about the experiences during that time?" The interviews were analyzed using the constant comparative method to develop themes.

Study Population

The population (n=19) of participants in the study consisted of students from multiple institutions throughout the St. Louis Metropolitan Statistical Area (MSA). However, 95% of the participants

identified as having been students at Saint Louis University during the unrest in Ferguson in 2014 and 2015. At the time of the interviews 10% of the participants had graduated from the institution and have either found employment, continued to graduate school, or were attending a different institution during the 2016 academic year. The makeup of the participants was primarily undergraduate students (63%) and female (63%). The racial and ethnic breakdown of the participants closely mirrors the population of the Saint Louis University with 73% of the participants identifying as white or Caucasian, 9% Black or African American, 9% Asian, 5% self-identified as Hispanic, and 5% choosing not to disclose the information. Although not a question within our survey, 14% of the student participants self-identified as being actively affiliated with the military or having a military veteran status. Of the

respondents discussing perceptions of flag desecration, 54% elected to comment on the incident and 46% did not discuss the incident.

Results

Four primary themes emerged from the analysis of the interviews. The first theme developed from student interpretations of flag desecration, while the second theme captured their emotional responses. The third theme, communication with protestors, arose from accounts of how participants interacted with the demonstrators on-campus regarding the flag. The fourth and final theme emerged from perceptions of how the demonstrators’ message was influenced. Each theme is supported by two or more subthemes, and is illustrated by quotes from the interviews. Table 1 illustrates the themes and subthemes.

Table 1. Emergent themes and subthemes of the student response to flag desecration during the Occupy SLU movement

Theme	Subtheme
Interpretations of flag desecration	40% symbol of distress 30% symbol of disrespect
Emotional response to flag desecration	50% angered 30% annoyed 20% neutral
Communication with demonstrators about flag desecration	30% combative 20% one-sided 10% uncomfortable 10% productive
Perceptions of how the demonstrators’ message was influenced by the desecration of the flag	50% ineffective 30% effective

Interpretations of Flag Desecration

The first theme that emerged captured the interpretations of flag desecration. This theme arose from comments on the symbolic nature of how the flag was displayed, that is, upside-down. In accordance with the U.S. Flag Code, “the flag should never be displayed with the union down, except as a signal of dire distress in instances of extreme danger to life or property.”²² Participants identified two interpretations of seeing the flag displayed upside down: 40% felt it was a symbol of distress, as maintained in the U.S. Flag Code. In contrast, 30% felt it was a symbol of disrespect. One participant described her thought process of learning about the upside-down flag as a symbol of distress and how she processed this information:

I was like, can someone please explain why this is happening? And someone explained to me that when a country is in distress they hang their flag upside down. I was like, that’s valid. I see how we are in a state of distress right now.

In contrast, 30% of participants interpreted the display of the flag upside down as disrespectful. This interpretation was consistently coupled with references to those serving in the military. For instance, one participant remarked, “as someone who wanted to be in the military, I was at first like, that’s disrespectful, that’s wrong.” Another participant described, “to someone who serves this country and keeps those people safe, it’s kind of a slap in the face.” A third participant commented, “maybe I’m biased because my mom is in the Navy ... you shouldn’t disrespect the flag. If you’re going to disrespect the flag, then go somewhere else.”

Lastly, one participant described how his interpretation changed from viewing the upside-down display of the flag as disrespectful to an appropriate symbol of distress. He described:

At first I was angry. I was like, oh no, my cousin fought for this country — my grandpa, my uncles — that’s disrespectful. But then when I understood, I was like, I agree. I think we

should hang it upside down ... this is distress.

Two interpretations of the flag desecration emerged from the participant interviews. The flag’s display was interpreted either as a symbol of distress or of disrespect. Notably, one participant changed his interpretation upon learning the rationale behind why the protestors chose to display the flag upside down and felt that the nation was in distress.

Emotional Response to Flag Desecration

The second theme that emerged from the data captured the various emotional responses to flag desecration. Three emotional responses were identified: 50% were angered, 30% were annoyed, and 20% were neutral. The angered participants described how the flag desecration immediately elicited anger in themselves or those around them. For instance, one participant noted that, “it made a bunch of people mad.” Another reflected, “I think that people became more angry about the flag being on the ground than about the actual message ... [of the demonstrators].” A third participant recalled her own emotional response, noting, “That made me very angry.”

In contrast, 30% of participants described their primary emotional response as annoyance. This emotion was directed either towards the demonstrators or to the response of their peers. For example, one participant felt the demonstrators “just wanted to be a nuisance. Their goal was to annoy people and to upset a lot of people, especially students.” Another participant commented, “Most SLU students were pretty annoyed by the demonstrators,” and described the flag desecration as a “huge issue for most SLU students.” Still, a third participant described his annoyance as directed towards the SLU students, not the demonstrators. He explained, “they weren’t really listening to what the demonstrators had to say, and they were just kind of freaking out that this flag was upside down and complaining about how their parents were fighting for this flag.”

Lastly, 20% of participants felt neutral towards the flag’s display. In response to the question, “How

did it make you feel personally?” one participant explained:

Personally, I was fine with it. It doesn't personally affect me if it touches the ground or not. Some people who had parents in the military or family in the military were very, very angry by it. I sympathized with them and I also sympathized with the protestors.

The three emotional responses that arose from the flag desecration were that of anger, annoyance, and of neutrality. Those that felt angry described their personal response, or the anger they witnessed in those around them. Those that were annoyed described this emotion as directed either towards the protestors or towards SLU students that were not listening to the protestors. Those that felt neutral did not feel personally affected by the flag desecration and described their ability to sympathize with various viewpoints.

Communication with Demonstrators about Flag Desecration

The third theme that emerged was regarding participants' communication with demonstrators regarding the flag desecration. This included reports of either personal communication or dialogue that others were having with the demonstrators. Thirty percent described the communication as combative, 20% as one-sided, 10% as uncomfortable, and 10% as productive.

Those that described the communication as combative provided explicit examples to illustrate their interpretations. For instance, one participant recalled, “they [the demonstrators] just kept yelling profanity and racial slurs at everyone instead of stating what they wanted from us.” Another reported, “one of the protestors were [sic] stomping on the American flag and one of these guys went up and grabbed the flag, like, ‘you have no right to do this’ ... they started to verbally go at each other.” A third participant simply commented, “it was hate form both ends.”

Twenty percent characterized the communication with protestors as one-sided. For instance, one participant reflected, “I tried to have a two-way

conversation about what was going on. It's pretty surprising how they don't want to have a conversation. It's not a two-way street to them.” Another participant recalled, “No one would sit down and talk to me about it.”

Ten percent described the communication as uncomfortable. This characterization arose from observations about the dialogue that others were having, not their personal experience. For instance, one participant described, “I was talking to some friends and they felt that they were not necessarily like, threatened in a sense, but approached in a way that they felt uncomfortable talking to some of the protestors.”

Finally, 10% described communication in a positive way as being productive. Again, this characterization arose not from personal communication, but from observations of others. One participant reflected:

I had a large number of friends that were able to have, like, productive and open dialogue with them opposed to feeling uncomfortable or feeling that they can't approach them ... and just actually have the conversation with the people that were there.

This theme emerged from participant descriptions of how they themselves interacted with the protestors, or from observations of others. Communication was characterized as primarily negative: Combative, one-sided, or uncomfortable. However, a small percent of participants did characterize communication in a positive way acknowledging it as being productive.

Perceptions of How the Demonstrator's Message Was Influenced by the Desecration of the Flag

The fourth and final theme that emerged is the perception of how the demonstrator's message is influenced by flag desecration. Fifty percent of the respondents felt the flag desecration tactic was ineffective, while 30% felt it was effective. Those that felt the demonstrator's message was ineffective felt it “clouded their message,” was a “distraction from the actual issue,” or “covered their entire message.” For instance, one

participant explained, “people won’t listen to the message as clearly if they are just staring at the flag.” Another participant reflected: “when they drug [sic] the flag on the ground I felt disheartened and it almost momentarily discredits them being there.... I think that act of dragging the flag on the ground caused more hatred and we aren’t trying to build more hatred towards black people. We are trying to do just the opposite.”

However, 30% of participants felt the flag desecration was effective. One participant commented, “It got their point across.” Another explained, “The flag is a very powerful tool anytime that you use it to represent something that it doesn’t represent. You will also draw attention, and it was very thought-provoking.”

Most participants felt the flag desecration was ineffective. This was consistently coupled with expressions that the display clouded the demonstrator’s message by provoking anger from onlookers. However, some participants did feel the display was effective and powerful.

Discussion

When considering flag desecration on our Jesuit campuses, we must take into account the following. First, the historical reaction to flag desecration in the United States has generally been met with ardent opposition by the public. This is evidenced by the five-to-four decision of the Supreme Court in *Texas v. Johnson*, as well as the repeated efforts at federal legislation aimed at protecting the flag. Thus, it stands to reason that flag desecration would be met with opposition on our campuses. This assumption was confirmed by those students in our study who reported the desecration of a flag on campus was either disrespectful or detrimental to the demonstrators’ cause.

The desecration of the American flag as a tool within social justice movements deserves a closer look, particularly regarding the motivations of demonstrators who desecrate the flag. Demonstrators argued that black people were experiencing distress resultant to the Ferguson grand jury’s decision. Demonstrators posited further that, historically, black people have been oppressed and they demonstrated their distress by

flying the American flag upside down. This is a sentiment that students in our study reported being able to understand; however, they did not necessarily agree with it. Pointedly, students identified the action as a distraction from the primary message of the movement. Furthermore, the demonstrators went further than simply displaying the flag upside down; in multiple instances, the flag was stepped on and dragged through the mud. Arguably, one could interpret this method of desecration as the literal destruction of the symbol of a systemically oppressive institution — the United States of America. However, students in our study did not interpret the flag desecration in this manner. Rather, they viewed the desecration as an “annoyance,” a “nuisance,” and as “disrespect” toward the nation. Furthermore, the desecration acted as a catalyst, resulting in some of the students who initially supported the Occupy SLU movement recanting their support. Nevertheless, as noted by Raymond Smock, the number of flags burned during protests is small, yet the issue of flag desecration evokes a mixture of emotional responses.²³

So how do we address this opposition in a way that aligns with Ignatian values? Consider this: the fervent outcry against flag desecration is, in great part, because most Americans find it offensive. *Argumentum ad populum* asserts that a populace accepts an idea or belief because the majority assents to its truth or inherent goodness. Given this, what implications exist for the minority when we ban speech because it offends the majority? If the government holds the power to punish peaceful dissenters for merely disagreeing, then the minority becomes a vulnerable population susceptible to oppression. To demonstrate a commitment to social justice, Jesuit institutions have a duty to protect the minority — even in the wake of the desecration or destruction of institutional symbols like the flag. We argue that Saint Louis University’s president, Dr. Fred Pestello, encouraged such action when he invited discourse between stakeholders and ensured a safe space for demonstrators to engage in this dialogue. Furthermore, we are reminded of the importance of this discussion by the esteemed Adolfo Nicolas, S.J. In his 2013 address to Jesuit university board chairs and presidents in the United States, Nicolas warned about the potential

of the majority of a nation to threaten liberty and equality. Fr. Nicolas decreed, “not everything that wraps itself in an American flag is worthy of the great ideals of your nation.”²⁴ He encourages stakeholders at Jesuit institutions to engage in discussions about what it means to be “American” and not to “settle for a shallow understanding of what it means to be a Catholic and Jesuit institution in the United States.”²⁵

Next, we must recognize that despite its overwhelming unpopularity, flag desecration is, in fact, legal. Its legality is guaranteed by the First Amendment and has been upheld in our nation’s highest court. Recognizing flag desecration as basic right may prove difficult for many because it starkly contrasts with ideas of what it means to be a patriotic American. The late Supreme Court Justice William Brennan eloquently unraveled the complexity of the issue of flag desecration and the veritable right of individuals to do so. Justice Brennan asserted, “we do not consecrate the flag by punishing its desecration, for in doing so we dilute the freedom that this cherished emblem represents.”²⁶ Justice Brennan’s words offer a powerful outlook on the issue and a useful reminder for those of us who struggle with accepting its value.

The issue of free speech also has implications for institutions that endeavor to embrace *cura personalis*. Consider the potential effects of restricting the right to express oneself on an individual’s dignity. Mohammed Wattad elaborates upon this point:

Punishing a person for their speech is a form of humiliating the person’s dignity, suppressing their soul, depressing their will, and suffocating their brain. On the other hand, the damage that results from desecrating the flag is small; it does not even come close to the damage caused to the individual because of the criminal punishment.²⁷

With this argument in mind, we see the intertwined nature of a person’s dignity with his right to express himself freely. From a sociological perspective, this type of humiliation is in line with labeling theory and reintegrative shaming. This puts stress on interpersonal relationships,

subsequently leading individuals toward long-term social ailments such as the inability to find legitimate employment, and it increases in crime due to the likelihood of re-offending.²⁸

Finally, we must reflect upon the role college campuses have generally played in civic discourse. Civic discourse concerning controversial topics have, historically, been embraced on campuses where academic inquiry and democracy are held in high esteem. This freedom, however, is currently in danger of being constrained. Today, many institutions including Louisiana State University, the University of Southern California, Indiana University, and Brigham Young University are opting for the use of “free speech zones.” Such zones are designated for students and other college community members to freely express themselves, effectively precluding the remainder of the campus from such freedom. Although not a unique concept, one must ask: do free speech zones inhibit the First Amendment rights of students and faculty members? This question deserves further investigation and in fact, some states have begun to fight back against the restriction of freedom of speech. Currently, three states including Arizona, Missouri, and Virginia have adopted laws that prohibit the practice of free-speech zones.²⁹ Consider, what our Jesuit faith tells us about academic inquiry and discourse and the idea of *magis*. The mission of Saint Louis University describes *magis* as requiring students to “go deeper, think critically and solve problems creatively for the glory of God and the service of humanity.”³⁰ Can we say our institutions are genuinely aligned with *magis* if we are restricting the rights of students’ freedom of expression? Furthermore, the Ignatian commitment to scholarship requires of us, as academic communities, to embrace dialogue as a means of deepening our learning.

Author’s Reflection

In the Jesuit tradition of reflection, I [Tommy] would like to share my personal experiences during the Occupy SLU movement, specifically in regards to the flag desecration that took place. I am a veteran of the U.S. Army and work closely with many of our university’s student veterans. Because of my perspective, I can easily understand the jingoistic stance toward flag desecration;

particularly, that it is an abhorrent act bordering on treason. However, my work as an academic has fostered my deep appreciation for critical thought. When presented with flag desecration on my own campus, I saw the opportunity to challenge both my own perspective as well as the perspective of my fellow veterans as it pertains to flag desecration.

As I worked with students during this time, I found that many of them grappled with the logic behind flag desecration. In reply to this, I turned, time and time again, toward the definition of flag desecration provided by the U.S. Code. As previously stated, the government's definition of flag desecration includes allowing the flag to touch the ground and intentionally displaying it upside-down. Notably, though, this same code admonishes the use of the flag in advertising, sports uniforms, or costumes.³¹ It is often the case that the students who had expressed their anger with flag desecration were surprised to hear that they, too, were "guilty" of infractions. They may have previously worn a shirt or hat emblazoned with the flag, or perhaps used a cocktail napkin decorated with the stars and stripes, which in fact are considered flag desecration.

Their previously held notions on the subject were further challenged when I presented them the case of Michelle Manhart, a former training instructor for the U.S. Air Force who, on multiple occasions, posed nude with the American flag for *Playboy* and PETA. I posited the following question to my student veterans — many of whom are not offended by Manhart's actions — what is the difference between Manhart's actions and the

actions of demonstrators who display the flag as a sign of distress? I continued to query: Is one form of flag desecration more acceptable than another form? The truth of the matter is, the demonstrators' action of burning a flag in protest is no different than a grandmother's action when embroidering a flag on a pillow, as both involve desecrating the American flag. Desecration is desecration based upon the U.S. Flag Code. Furthermore, the U.S. regulation for respect for the flag prescribes burning the flag in some instances. It states that the flag "when it is in such condition that it is no longer a fitting emblem for display, should be destroyed in a dignified way, preferably by burning."³² Arguably, the flag — as a symbol of oppression — is not fit for display and perhaps demonstrators should burn this symbol of systemic oppression. As such, should one take offense at the ceremonial burning of a flag as he would at the burning of a flag in protest? Presumably not. Thus, we can conclude that the act of burning a flag can invoke different emotions based on the context of its occurrence despite the argument posited.

Finally, when I served in the United States Army, I swore an oath to uphold the Constitution of the United States.³³ That Constitution guarantees every citizen's right to express themselves freely. When I see an American burning a flag I am not provoked toward anger; rather, I feel pride in knowing that I (and my comrades in arms) have done our job protecting the Constitution. I need look no further than an individual's ability to freely desecrate the flag to see that my service to our country was not in vain. HJE

Notes

¹ Adolfo Nicolás, S.J. "A Call for Spiritual Leaders" (Chicago, October 12, 2013), accessed May 11, 2017, <http://www.xavier.edu/mission-identity/trustees/Information.cfm>.

² Koran Addo, "Negotiations, Concessions Led to End of Occupy SLU Protest," *St. Louis Post Dispatch*, October 21, 2014, accessed May 12, 2017, http://www.stltoday.com/news/local/education/negotiations-concessions-led-to-end-of-occupy-slu-protest/article_7dda5d3e-519b-5ae6-a481-301e1d2dab28.html; Brett Blume, "Some Protestors Staging Sit-in on SLU Campus," CBS St. Louis, October 13, 2014, accessed May 11, 2017,

<http://stlouis.cbslocal.com/2014/10/13/some-protestors-staging-a-sit-in-on-slu-campus/>; Fred Pestello, "'Occupy SLU' Anniversary Reminds Us That 'Love, Compassion, Concern, Respect for Others' Defines SLU," *The University News*, October 2, 2015, accessed May 12, 2017, <http://www.unewsonline.com/2015/10/02/occupy-slu-anniversary-reminds-us-all-that-love-compassion-concern-respect-for-others-define-slu/>.

³ Addo, "Negotiations, Concessions Led to End of Occupy SLU Protest."

⁴ John R. Luckey, *Flag Protection: A Brief History and Summary of Recent Supreme Court Decisions and Proposed Constitutional Amendments*, CRS Report for Congress (Washington DC: Congressional Research Service, 2006).

⁵ *Halter v. Nebraska*, 205 U.S. 34 (1907).

⁶ *Ibid.*

⁷ 4 U.S. Code § 7 (2011).

⁸ *To Adopt an Official Flag Code of the United States: Hearings on H.J. Res 11 Before the H. Comm. on the Judiciary*, 70th Cong. 1 (1928).

⁹ *Texas v. Johnson*, 491 U.S. 397 (1989).

¹⁰ *Ibid.*; James R. Dyer, “Texas v. Johnson: Symbolic Speech and Flag Desecration Under the First Amendment,” *New England Law Review* 25 (1991): 895.

¹¹ *Texas v. Johnson* (1989).

¹² Luckey, 2003; Flag Protection Act of 1989, H.R. 2978, 101st Cong. (1989), <https://www.congress.gov/bill/101st-congress/house-bill/2978>.

¹³ *United States v. Eichman*, 496 U.S. 310 (1990).

¹⁴ Proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, H.J.Res.10, 109th Cong. (2005), <https://www.congress.gov/bill/109th-congress/house-joint-resolution/10>; Muriel Morisey, “Flag Desecration, Religion and Patriotism,” *Rutgers Journal of Law and Religion* 1, no. 1 (2007): 1-32.

¹⁵ “Appeals Court Overturns Missouri Flag-Burning Law,” *The Kansas City Star*, May 30, 2014, <http://www.kansascity.com/news/state/missouri/article439238/Appeals-court-overturns-Missouri-flag-burning-law.html>.

¹⁶ Kyle Rowland, “7 Protesters Apprehended in Cleveland After Flag Burning,” *The Blade*, July 20, 2016.

¹⁷ Donald J. Trump’s Twitter account, November 29, 2016, accessed May 13, 2017, <https://twitter.com/realdonaldtrump/status/803567993036754944>.

¹⁸ National Archives, “The Bill of Rights: A Transcription,” accessed May 13, 2017, <https://www.archives.gov/founding-docs/bill-of-rights-transcript>

¹⁹ 36 U.S. Code § 110 – Flag Day (1998).

²⁰ E. F. Hutton, “The Flag of the United States,” *Vital Speeches of the Day* 18, no. 21 (1952): 660-662.

²¹ 36 U.S.C. § 176 – Respect for Flag (1996), <https://www.gpo.gov/fdsys/pkg/USCODE-1996-title36/pdf/USCODE-1996-title36-chap10-sec176.pdf>.

²² 4 U.S. Code § 8 – Respect for Flag (2000).

²³ Raymond Smock, *Landmark Documents on the U.S. Congress*, (Washington, DC: Congressional Quarterly Press, 1999), 118.

²⁴ Nicolás, 2013.

²⁵ *Ibid.*

²⁶ *Texas v. Johnson* (1989).

²⁷ Mohammed Saif-Alden Wattad, “The Meaning of Wrongdoing — A Crime of Disrespecting the Flag: Grounds for Preserving ‘National Unity?’” *San Diego International Law Journal* 1, no. 5 (2008): 5-62.

²⁸ John Braithwaite, “Shame and Criminal Justice,” *Canadian Journal of Criminology* 42, no. 3 (2000): 281.

²⁹ Peter Schmidt, “State Lawmakers Seek to Protect Campus Speech, with Mixed Success,” *The Chronicle of Higher Education*, May 26, 2016, accessed May 13, 2017, <http://www.chronicle.com/article/State-Lawmakers-Seek-to/236607>.

³⁰ Saint Louis University, “Jesuit Tradition,” accessed May 13, 2017, <http://www.slu.edu/about/catholic-jesuit-identity/jesuit-tradition.php>.

³¹ 36 U.S.C. § 176 – Respect for Flag (1996).

³² *Ibid.*

³³ 10 U.S. Code § 502 – Enlistment Oath (1956), <https://www.gpo.gov/fdsys/pkg/USCODE-2012-title10/pdf/USCODE-2012-title10-subtitleA-partII-chap31-sec502.pdf>.