

Confident Pluralism Study Guide

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This study guide is provided to help with discussions around *Confident Pluralism*. It is designed for one of several options:

- Option 1: The one-time discussion. Because the book is relatively short, you might plan to meet for a few hours to discuss the entire book. You could pick 5-10 questions from those that follow, or focus on those corresponding to the Introduction and Conclusion.
- Option 2: The reading group. You could meet for nine weeks, focusing on (roughly) a chapter each week. When augmented with supplemental material, this format also provides the beginnings of a framework for an undergraduate, graduate, or law school seminar. (Visit confidentpluralism.com for a sample seminar syllabus.)
- In the spirit of confident pluralism, either option can include food and drink!

Questions

Introduction

- 1) Consider the hypothetical at the opening of this book: Should a city refuse to pay for crossing guards at a Catholic school because of the school's views about gender? What about a religious school that discriminates on the basis of race? Could a conservative city refuse to pay for crossing guards at a progressive private school that encourages sexual liberty among its students? (pp. 1-2)
- 2) Is the United States really "e pluribus unum" ("out of many, one")? Why or why not? In what ways are we unified? In what ways are we not unified? Have we become more or less unified in recent decades? How and why? (p. 4)
- 3) How do membership standards—explicit or implied—affect the quality or substance of the groups of which you are a part? (p. 4)
- 4) Try at this point to put "confident pluralism" into your own words. What are your initial reactions to this idea? Does confident pluralism seem realistic? (p. 6-8)

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Chapter One

- 1) What feelings, emotions, and impressions do the words or phrases on the following page evoke for you? To what extent are these reactions shaped by: (a) personal experience; (b) lack of personal experience; (c) media or social media; (d) friends; or (e) other sources? (p. 15)
 - #BlackLivesMatter
 - conservative
 - Democrat
 - equality
 - evangelical
 - labor union
 - morality
 - Muslim
 - police
 - progressive
 - Republican
 - teenager
 - traditional
 - transgender
 - senior citizen
 - stay-at-home mom
- 2) Supreme Court Justice Robert Jackson wrote, “Freedom to differ is not limited to things that do not matter much.” How do we determine the outer limits on the freedom to differ? Why is it that some crimes (like murder) are not just a matter of opinion but other crimes (like adultery) are no longer seen as enforceable? Who should decide, and on what basis? (p. 17)
- 3) Look carefully at the freedoms set out in the First Amendment (p. 34). How would you describe the purpose and values of each of them? What might the freedom of assembly protect that is not protected by the freedom of speech? (p. 18-21)
- 4) Consider this quote from Supreme Court Justice Hugo Black: “The freedoms of speech, press, petition and assembly guaranteed by the First Amendment must be accorded to the ideas we hate or sooner or later they will be denied to the ideas we cherish.” Do you agree with it? How might you and the groups and institutions of which you are a part put it into practice? (p. 21)
- 5) Inazu argues that fewer people today value religious liberty than in past times in this country. Do you agree? Is this a good or a bad development? What do you think the proper role of religious liberty should be in our country today? (p. 22-24)
- 6) The Supreme Court has held that churches can hire and fire ministers without regard to federal employment discrimination laws. Is this a good idea? What should count as a “church” and a “minister”? (p. 25)
- 7) What groups does Inazu name as lacking membership in the political community? Can you think of other examples? (p. 26-29)

- 8) Does your local community extend the benefits of membership in the political community to all of its inhabitants? If not, in what ways does it fall short? What concrete steps could you take to help change that? (p. 29)
- 9) “Words without content will find their meaning in majoritarian ideas.” What does this claim mean for dissenting groups? (p. 32)

Chapter Two

- 1) Inazu argues that splitting the judicially created right of association into “expressive association” and “intimate association” weakens protections for the private groups of civil society. What kinds of groups in your own life might not be covered by either expressive or intimate association? (p. 35)
- 2) What is your reaction to the New York Police Department’s undercover monitoring of the Muslim Student Association at the City College of New York? How might surveillance affect the discussions and development of groups and the individuals who take part in them? (pp. 39-40)
- 3) How should membership boundaries for private single-gender schools or private sports teams account for transgender students and athletes? What is most fair? What is most equal? On what do you base your understandings of fairness and equality? (p. 43)
- 4) Inazu’s voluntary groups requirement proposes: “Government officials should not interfere with the membership, leadership, or internal practices of a voluntary group absent a clearly articulated and precisely defined compelling interest.” He writes that these compelling interests should be tied to specific harms or credible threats. What might be an example? (p. 48)

Chapter Three

- 1) Describe the differences between limited public forums and traditional public forums. What are the benefits to discussion and dissent for each kind of forum? What are the costs? (pp. 50-51)
- 2) Inazu lists examples of how the “time, place, and manner” restrictions on public forums can affect the message being shared by speakers. Can you think of some other examples? What kinds of public safety concerns would justify reasonable restrictions? What about the flow of traffic, or access to businesses otherwise blocked by protestors? (pp. 54-56)
- 3) What are the problems with determining that certain expressions by the government are “government speech”? (pp. 56-57)

- 4) Do you have a “private public forum” in your own life that facilitates your engagement with others? How do such places enable confident pluralism? (p. 58)
- 5) The Supreme Court held in 1968 that a privately-owned shopping center open to the public could not prevent citizens from exercising their First Amendment rights on its property. Justice Hugo Black’s dissent asked, “Under what circumstances can private property be treated as though it were public?” What do you think the answer should be? (p. 60)
- 6) What does the Internet mean for the public forum? How might Justice Black’s question (posed above) apply to Twitter or Facebook? (pp. 61-62)

Chapter Four

- 1) As you began this chapter, what did you generally think about tax-exempt status for charitable, religious, and educational nonprofits? (pp. 67-68)
- 2) How does denial of tax-exempt status, like the denial to *Big Mama Rag*, hurt confident pluralism? (pp. 71-73)
- 3) Inazu and other commentators note that the historical context of *Bob Jones* ultimately affected the holding of the case. Do you agree? To what extent should “public benefit” or “community conscience” limit tax-exempt status? How should we define those terms, and who should have the authority to define them? (pp. 75-76)
- 4) How might *Bob Jones* apply to a private university or college that refused to admit a person in a same-sex marriage? What about a church or other house of worship with the same policy? Is there a way to deny tax-exempt status to some religious organizations but not others? (p. 77)
- 5) As you end the chapter, what are your thoughts on tax-exempt status? Do you think it furthers confident pluralism? Should it be ended altogether? (pp. 79-80)

Chapter Five

- 1) Inazu proposes two principles in this chapter: the Dave Principle and the Sandy Principle. Describe each in your own words, and discuss how you see these principles play out in your interactions with others. (p. 84)
- 2) Do you agree with Inazu’s characterizations of tolerance, humility, and patience? Why or not? How would you define these ideas differently? Are they realistic aspirations to further your own practice of confident pluralism? (p. 85)

- 3) Philosopher Bernard Williams noted that tolerance is needed “only for the intolerable.” Where are the limits for tolerating others and their beliefs? Examine how your own views affect that answer. Can you objectively push the limits out further, in light of how your own beliefs shape your first response? (p. 87)
- 4) How is humility different from relativism? How can you use humility to connect with others through confident pluralism? (p. 89)
- 5) How do we distinguish between the need for patience to endure the beliefs of others and the need for action when confronting “evil and injustice?” (p. 90)
- 6) To what extent does Jerry and Larry’s friendship exemplify confident pluralism? In what ways does it fall short? Is there a Jerry or a Larry in your life? How should you treat them, according to the three aspirations of confident pluralism? (pp. 90-92)

Chapter Six

- 1) How does the First Amendment’s permissiveness of even hateful or hurtful speech support the goals of confident pluralism? In what ways does it undermine those goals? How should hateful and harmful speech be treated on college and university campuses? How should it be treated in high schools and middle schools? (p. 94)
- 2) What does “living speech” mean to you? How might more careful listening affect both our speech and our labeling of others? (p. 96)
- 3) Inazu introduces two ideas that are antithetical to “living speech”: the hurtful insult and the conversation stopper. How do our words marginalize dissenting groups or stop conversation altogether? How can we be more mindful about the use of harmful phrases that appear in culture, such as “that’s so gay”? (pp. 97-98)
- 4) Do you agree that even conversation stoppers that you believe are in fact true (e.g., calling someone a “bigot” or a “baby killer”) should be avoided for the sake of confident pluralism? (p. 99)
- 5) Legal scholar Lee Bollinger suggested that “a good case could be made for the proposition that the power of social intolerance exceeds that of legal intolerance.” Do you agree? How might our social standing exert more power than legal incentives to say or not say certain things? (pp. 100-101)

Chapter Seven

- 1) How do we balance the constitutional right of others to assemble and protest with the aspirations of tolerance, humility, and patience? (p. 105)

- 2) Inazu suggests that context matters when determining whether boycotts should be discouraged or encouraged by confident pluralism. How does the Claiborne County boycott support this assertion? (p. 108)
- 3) What does or should “majoritarian power” mean in the context of boycotts? Does the word “majoritarian” mean numerical majority or the “most influence” or something else? Is the “power” economic, political, or social? What do each of these mean for confident pluralism? (p. 110)
- 4) The CEO of Mozilla had to step down because of his donations in support of California’s Proposition 8 regarding the definition of marriage. Should we care about the personal beliefs of CEOs? (p. 111)
- 5) How effective do you think boycotts are today? Against whom are they most effective, and why? (p. 113)
- 6) Are for-profit corporations expressive and multifaceted, or are they singularly focused on profits? Is your view consistent across speech for corporations (*Citizens United*), religious exercise by corporations (*Hobby Lobby*), and boycotts by corporations (e.g., the many for-profit corporations that have threatened boycotts of states that enact certain laws)? (p. 113)
- 7) “Pluralism is not a one-way street,” notes Ross Douthat. What does this mean for those choosing to boycott and those being boycotted? (p. 112)

Chapter Eight

- 1) What social, economic, racial, geographical, or other classifications affect your ability to participate in confident pluralism by engaging with those who are different from you, and how can you overcome those barriers? (p. 117)
- 2) Senator Danforth’s example of friendship between an anti-abortion activist and the director of Missouri’s largest abortion clinic highlights the value of trust in achieving positive results. How might the ideals and aspirations of confident pluralism foster trust among people? What other actions or attributes help foster trust across difference? (p. 119)
- 3) How does the anonymity of the Internet affect our ability to bridge relational difference? How does the Internet affect partnership across geographical distance? (pp. 122-123)
- 4) Is there a group of which you are a part that could partner with another, differing group to solve community problems? If you are working through this study guide in

a small group, is there someone whom you could invite to contribute a different perspective to the dialogue? (p. 124)

Conclusion

- 1) Try putting confident pluralism in your own words again. What are your final impressions of the idea after reading this book? Do you think confident pluralism can or will be a way forward? Why or why not? (p. 125)
- 2) What questions remain after reading through this book? Which ideas did you find most helpful? Which arguments did you find unclear or unconvincing? (pp. 125-129)
- 3) Is there a particular relationship, environment, group, or issue that you view differently having read this book? If so, how and why? (pp. 131-33)