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Frank Shushok interviews Professor John D. Inazu about Surviving & Thriving Through Deep Difference and What it Means for the University

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John D. Inazu stresses the importance of tolerance, humility and patience as foundational principles for maintaining dialogue across difference.

Executive Editor Frank Shushok Jr. Talks with Professor John D. Inazu about His Book, *Confident Pluralism: Surviving and Thriving through Deep Difference*, and What It Means for the University

JOHN D. INAZU is the Sally D. Danforth Distinguished Professor of Law & Religion at Washington University in St. Louis. His scholarship focuses on the First Amendment freedoms of speech, assembly, and religion, as well as related questions of legal and political theory. His recent book, *Confident Pluralism: Surviving and Thriving through Deep Difference*, was published in 2016 by the University of Chicago Press. The paperback version, with a new preface, will be available in August 2018.

Shushok: *First, I'd like to begin by expressing how much I enjoyed reading your book. I found it both hopeful and practical, especially in a time in our country where we seem profoundly divided. I'd like to begin by asking you to talk about what you mean by "confident pluralism."*

Inazu: I start with the premise that we have deep differences over things that matter a great deal—and we're not likely to overcome those differences. As a descriptive matter, we're stuck with a political problem that needs a practical solution. I try to focus on the



JOHN INAZU IS THE AUTHOR OF *CONFIDENT PLURALISM* AND PROFESSOR OF LAW AT WASHINGTON UNIVERSITY IN ST. LOUIS (PHOTO CREDIT: SAM LALLY)

opportunities rather than the impediments. We need a background legal structure that recognizes difference and facilitates dialogue across it. We also need people who engage across those differences through civic practices. The less optimistic side of the book suggests we are falling short with both our background legal structures and our civic practices. But I think we can become confident with the reality of pluralism. We also can be confident in our own beliefs and the institutions that sustain them.

The Challenge of Diversity

Shushok: *It sounds like you contend we have work to do to strengthen our legal system and civic practices. How did we find ourselves where we are today?*

Inazu: On the civic side, part of the challenge comes from having greater diversity in our society. There are immigration trends that have contributed to this reality; there is also greater awareness of distinctions in gender, race, and other issues that were glossed over in an assumed consensus of an earlier era. The more that we recognize the actual differences among us, the harder it is to find consensus and unity out of those differences. So that's part of the change. But in another sense, perhaps some things haven't changed that much. We've always had to navigate deep and painful differences, and we have always lived alongside people with whom we did not agree. Part of the reason I have modest confidence about the future is that we have

encountered some pretty significant obstacles in the past and worked through them.

Shushok: *Most of our readers are not legal scholars, so I would welcome an accessible explanation of the legal argument you make.*

Inazu: On the legal front, part of it goes back to how James Madison and the architects of the original American experiment understood the nature of differences between groups. When Madison talked about factions, he understood them to be something that were less than ideal but a political reality. His approach in *Federalist Ten* and other writings was to ask "how do we manage differences and the groups that form around them?" By the middle of the 20th century, however, American intellectuals started to think that groups were more harmonious—which nurtured a narrative of an assumed consensus or unity. I think Madison had it right. Groups are going to create painful differences. We have to manage those differences and recognize that the political experiment of living together is never going to be an ideal arrangement. It is going to mean living with the mess of difference. The legal framework that I'm suggesting is a move back toward an understanding of the First Amendment that recognizes our tendency to try to squelch difference and dissent. We must therefore protect ourselves against this tendency through constitutional mechanisms. I think there is a recovery project to be had, as the law has moved increasingly toward a consensus liberalism that wants to deny differences, particularly those that emerge within groups that are out of step with an assumed order.

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Shushok: *When considering the changing demographics in America, is it safe to say you think our disagreements are going to get harder as we become even more diverse?*

We love feedback. Send letters to executive editor Frank Shushok Jr. (fshushok@vt.edu), and please copy him on notes to authors.



FRANK SHUSHOK AND JOHN INAZU MEET IN FRANK'S OFFICE AT VIRGINIA TECH (PHOTO CREDIT: SAM LALLY)

In thinking about the future, I hold onto the fact that we have always had political, religious, and other differences. To me, one of the most interesting changes emerging from the past 50 years is the growth of the number of nonreligious citizens. We are used to negotiating a religious pluralism in which most people had some sort of religious faith. In the 1990s, we recognized differences between and among religions and asked a question such as, “How do Muslims, Christians, and Jews get along with each other?” While this was a hard question, we could answer it with appeals to the divine, the transcendent, or the afterlife. While those appeals didn’t neutralize the differences, they at least created a shared religious framework. Now we have a significant demographic of people who reject a religious perspective altogether. We have the new problem of negotiating pluralism that includes both religious and nonreligious diversity. Without a framework that binds people together through religion, the challenge is greater. We have aspirational ideals in this country about being a more perfect union, but we have to address what fills the content of that unity. This is harder to answer now.

The Social Nature of the First Amendment

Shushok: *How did you become interested in this topic of surviving and thriving through deep difference? What shaped you into a person trying to sort all this out?*

Inazu: I started off as an engineering major in college, which has little to do with any of this. Then I went to law school and became interested in some of these questions we are exploring today. Toward the end of my legal practice, I read a First Amendment case where I stumbled onto the right of the people to assemble peacefully. I had been to law school and was practicing law for four years and never thought about or heard about the right of assembly. It was right there in the text. I did some research and discovered that almost nobody had written about this First Amendment right for the last 40 years, which was also kind of astounding. When I went back to school to work on a PhD, I made this my dissertation project. One of the discoveries I have tried to articulate in my writing is that of the rights in the First Amendment—assembly is the only one that requires another person. There are five individual

rights in the First Amendment, and I can do four of them by myself: I can speak, I can be the press, I can petition the government, and I can practice at least some forms of religion. I cannot, however, assemble alone. I must have at least one other person with me. I began to make normative and theoretical arguments that the presence of this assembly right in the First Amendment meant that our political order depends upon a recognition that we engage in society not only as individuals but also in groups.

Shushok: *You work on a college campus, and you've visited many others. Since you are paying attention to free speech issues on campuses, how well are we balancing the tension between First Amendment rights and nurturing inclusive environments?*

Practicing Dialogue Across Difference

Inazu: I love the question. Two things come immediately to mind. I think, from an administrative perspective, colleges can do better proactively thinking about the kinds of speakers who can be helpful to negotiating difference. A lot of what occurs involves what I call “the bomb throwers”—people who come to campus to cause a stir. These speakers are usually invited by a student group (to demonstrate a free speech principle of some sort), but they do little to negotiate across difference. I would rather look for possibilities of cosponsored events by two very different student groups, or two very different departments, or an unusual pairing of people who will come in and draw an audience of people who normally would not be in relationship with one another. Then we can have follow-up discussions in smaller settings and try to practice dialogues across difference. I also think we have to figure out how we let each other make mistakes in conversation. In discussing differences, we are going to slip up. We are going to make mistakes. We are going to say the wrong thing. We are going to make the wrong assumptions. The first response to these mistakes should be “tell me more” or “let me explain to you why that didn’t sound right to me.” In relationships of trust, we can grow through mistakes. Slip ups too often become a conversation stopper, or even worse, they end a relationship.

Shushok: *I am intrigued by your notion of conversation stoppers. Would you explain your thinking to our readers?*

Inazu: The idea is that we sometimes deploy words that are meant to end a conversation rather than to engage in it. If I call somebody a bigot, a heretic, or a hater, it is most often meant to stigmatize the viewpoint held by the person in order to stop the

conversation. This is not a way to dialogue across difference. I think we can ratchet down the labels we are using. Can we assume a kind of goodwill in the conversation? We might internally think a comment was really dumb, selfish, or hateful, but instead of immediately voicing our objection, can we extend the benefit of the doubt and ask a follow-up question that challenges without immediately jumping on somebody? It’s these conversations that allow people to grow.

I would rather look for possibilities of co-sponsored events by two very different student groups, or two very different departments, or an unusual pairing of people who will come in and draw an audience of people who normally would not be in relationship with one another.

Shushok: *The premise of your book rejects Jean-Jacques Rousseau’s bleak declaration that “it is impossible to live at peace with those we regard as damned.” I’d like to explore the basis of your optimism (given that there are so many counterexamples). What keeps you hopeful?*

Inazu: I want to be careful and say that this is a pretty modest optimism! It just means that I’m not a pessimist—and this is an important distinction. What is the alternative? If Rousseau is right, it means our only goal is absolute control and trying to crush the other side.

Shushok: *This is a win-lose proposition.*

Inazu: Or, conversely, complete withdrawal where we insist we are not going to share life together in any meaningful sense. The alternative is to try to figure out how we negotiate our differences. So where then does my optimism come from? It is sometimes hard to maintain optimism when we look around and see the vitriol in our society. Still I find encouragement in local settings where real human beings are working together across differences. This is happening. These aren’t always the stories that get told the most, but in real life people figure out ways to solve practical problems by working with each other across differences.

We can find some reason for optimism in our history. While we might look back and think that earlier eras did not have the problems we have today, the problems in their time were nothing to dismiss. When we look back to our countries, at the founders, for example, people figured out a way to live together without killing each other. We can say, how hard was that? They were all white male Protestants, which is true. But it is also true that in other parts of the world they were killing each other over their differences. We ought to be looking back and acknowledging these remarkable political accomplishments and finding some encouragement for our current moment.

Shushok: *I appreciated how your three civic aspirations move us closer toward a world of confident pluralism. Will you share how and why tolerance, humility, and patience are foundational principles for thriving among deep difference? How do we, as individuals, enact them?*

Tolerance, Humility, and Patience

Inazu: I call them aspirations because we have to start somewhere. To enact them, however, we have to move toward something more like habits or practices. By tolerance, I mean that we must figure out how to live with people whose beliefs and practices differ from our own. What that means is that we do not actually aim for complete acceptance. Some arguments for tolerance, especially on college campuses, suggest that one can only be tolerant if one completely accepts a person (and validate every part of their identity and beliefs). I think that this is impossible philosophically—and it is also not real tolerance. Instead, I see tolerance as something closer to mutual coexistence. This concept means that I must work hard to understand and respect you as a human being, but it does not mean I respect all the views that you hold or all our differences. The second aspiration is humility, which is a recognition that in society we are going to encounter people with extremely different views from ours, and we will not always be able to prove why we are right and why they are wrong. Humility should remind us that sometimes what we hold true and what we believe is not always accessible to other people we encounter. The third aspiration is patience, which is the idea that when we encounter people with different perspectives, we start by giving them the benefit of the doubt. We seek to listen, empathize, and understand. That does not mean that we end up agreeing with them; it could be that listening patiently clarifies our differences even more. But patience means beginning with a posture of good faith and a desire to listen.

Shushok: *It seems like what you describe is easy to embrace when you think about modest religious or*

cultural differences. But what about those really rough edges like the overt racist, and the person of color who are trying to coexist in a space with that person. Do you have any thoughts about how we manage in those really difficult places where actually one party sees the other as having less value?

Inazu: Right. I think the entire notion of engaging across difference in civic space presumes that all the actors recognize the ability and the right of other people to be there. The white nationalist who says I don't actually respect your citizenship or humanity is not going to be playing the game of confident pluralism.

Shushok: *So they are out of bounds?*

Inazu: They are out of bounds, right. Not legally, because the First Amendment will likely protect them, but as a civic matter there is not likely a way to convince them or invite them into the conversation. The conversation about how we navigate differences starts with the premise that we acknowledge the humanity and citizenship of our conversation partners. There are just going to be outliers that cannot be part of this particular political argument.

Instead of seeing the diversity around us as a problem to be managed, can we see it as the training ground for a life well lived?

Shushok: *Let's talk practically about those of us working with college students every day, whether it's in the classroom or through cocurricular activities. If we want students to become competent in pluralism, how do we do this?*

The Role of Higher Education

Inazu: We start by recognizing what a tremendous opportunity we have on the college campus. Probably an opportunity like no other for most of the students who pass through. Instead of seeing the diversity around us as a problem to be managed, can we see it as the training ground for a life well lived? Civic practices across difference can encourage these sorts of things. This starts when administrators and faculty recognize our own blind spots (which are going to differ contextually and geographically). How do you figure out what you're not seeing? You're going to have to invite outsiders into the conversation. Do you know trusted people from other places who can come in and name

your reality? Do you notice when you are sitting in a faculty conference without any ideological diversity in the discussion? Unless we are open to hearing those kinds of critiques—and doing something about them—we are not going to model well for our students what it actually looks like to dialogue and negotiate across difference. Instead, we are going to have fake displays of debates between people who really mostly agree with each other. When we do that, we are not setting up students for the hard encounters they are going to have for the rest of life.

Shushok: *So how do you evaluate how well we are doing?*

Inazu: It is really going to depend contextually. I think the challenge of human relationships, even when we are initially aware of a problem, is that we become our own echo chambers. We invite in experts to become part of who we are and then we assume that we are doing it right. Part of the challenge is recognizing that we are never done learning and we are never done growing. We should not be satisfied with our existing relationships; we should be pushing for others to tell us where we can improve on these things. I think we have a lot of work to do in higher education. We have our own cultures, our own social networks, our own influences. Some of the critiques of higher education today are not wrong, like when people say we are just out of touch with a big part of the country. That's a problem. We have to double down on our efforts to figure out how to bridge those gaps without being paternalistic or caricaturing other people. How can we be more present in some of these spaces we don't know, not as anthropologists visiting the people who are strange but by actually forming relationships with people who view the world differently.

Shushok: *That's easier said than done, but it does seem like a very practical first step.*

Inazu: Bringing in other perspectives does not mean opening yourself to anyone who wants to speak. This is back to the point about when campuses or student groups bring in the bomb throwers who are just trying to agitate; those people may actually be outside the norms of what academic discourse in the university ought to be. You can bring in people with wildly varying perspectives who can agree to certain discourse norms and then share their perspectives within those norms. That is what I think we should be striving. We have enough smart people who can disagree with each other in this country to fill a lot of years of the university calendar without inviting the bomb throwers.

Shushok: *With regard to "bomb throwers," it sounds like you are arguing that we must simply manage these people with respect to the First Amendment.*

Inazu: I think that is right, but we should also consider how we can avoid those moments on the front end.

When you have a student group that wants to invite a speaker who is going to be an agitator, do you as the administrator have the relationship with that student group to ask them to consider what value this effort will bring? How does this speaker really help your cause? How does the speaker help the university? If you want to have a viewpoint or a perspective advanced on campus, can we think of someone who can do that just as well but will do so within our own discourse norms? Or are you simply trying to create a spectacle or get media attention? If the goal is spectacle, then I think as an administrator you can say to the student group that they might have the legal right to invite that speaker, but they are not actually helping the community around them.

When you have a student group that wants to invite a speaker who is going to be an agitator, do you as the administrator have the relationship with that student group to ask them to consider what value this effort will bring? How does this speaker really help your cause? How does the speaker help the university?

Shushok: *I'd like to shift for a moment and explore a more personal angle with our time together. One question I'm asking people I interview is how they've changed. I'd value you reflecting about the ways the 25-year-old John is different than the 35-year-old John and the one I'm talking with today. What are the most salient lessons growing older has taught you?*

Inazu: I'm 43, so it's a fair question to ask. Thankfully, it is not yet a completely nostalgic question, right? I think 25 is a really interesting age for me to start with, because when I was 25, I had just graduated from law school, and I was in my first year of legal practice at the Pentagon. For me, that time of life is bifurcated by 9-11; I was in the Pentagon on the morning of 9-11 when the

plane hit the building, and that experience, and the weeks and months afterward, were transformative in a number of ways. One lesson I learned was how less put together I was than I thought I was. If you asked me the day before 9-11 what would I do in a national catastrophe or emergency, or how would I think about the possibility of life ending suddenly, I would probably have given grandiose views of myself and how I would handle such a situation. Having lived through it, I have a little more humility about who I am.

The 35-year-old John was married with very young children. Having moved from graduate student to professor, and having moved from parent of little kids to parent of older kids, I was starting to think differently about all the questions that we have been talking about—they were becoming embodied for me in my kids and their future. Today, especially with my 10-year-old, I am thinking of her life as a freshman on a college campus—and my hopes for higher education are no longer as abstract. I also have more confidence today, but I hope it is the right kind of confidence. I do not think it is an arrogance but a greater sense of security about what I am doing in the world—I know what my expertise is, and I know what it is not. I know when to speak as an expert, and I know when not to speak. I think at 35 I would not have recognized those boundaries as clearly.

Shushok: *My last question is really quite broad. What else is capturing your thinking and your imagination? As you consider kind of who the audience is of About Campus, are there things that you're thinking about that you wouldn't mind thinking out loud with them.*

Inazu: I have done a lot of recent writing and thinking about the university as a site of confident pluralism, and what it means to negotiate these questions in the university. I have been thinking and reading about what is coming in higher education. My sense is that we are in for a lot of pain in the next 10 to 20 years. With financial pressures and with pressures about the coherence of the project of the university, we will see a lot of challenges. The many ways in which priorities are set by different actors are also frequently at odds with each other. Whether its big-time athletics or government dollars or the humanities versus the sciences or initiatives to get students funded in different ways, or private corporations or nonprofits that are trying influence the

university, these pressure points will be difficult to sort out. Many schools are facing budget cuts that are going to hurt. And we face a kind of collective identity crisis with questions about what are we doing here. That's a challenge, but it is also an opportunity. It's an opportunity to say, "How can we be creative as institutional citizens in the space in which we find ourselves?" What will it take to reimagine how we see our own jobs? I probably should not say this on the record but I will: I actually think tenure is not always that helpful. Tenure discourages innovation and imagination and reinforces path-dependent practices.

We face a kind of collective identity crisis with questions about what we are doing here. That's a challenge but it is also an opportunity. It's an opportunity to say "how can we be creative as institutional citizens in the space in which we find ourselves?"

Shushok: *How did you come to that conclusion?*

Inazu: I cannot imagine any other job where all the incentives encourage people to not change. Tenure in theory is supposed to allow one to be more ambitious, controversial, or whatever. But it also cuts against innovation. As a scholar, how I engage the public, understand students, use technology, or respond to demographic shifts—all of this needs to be incentivized toward change. With tenure, I don't have to do any of this. I can just pull up the same lecture notes and give the same class.

Shushok: *We should end on that wonderfully provocative and thought-provoking note. John, it's been a ton of fun to talk with you. I love your spirit and your ideas and your hope for humanity.*