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Response to *Must We Defend Nazis?*

In the latest rendition of their book, *Must We Defend Nazis?*, legal scholars Richard Delgado and Jean Stefancic pose an argument against absolutist interpretations of the First Amendment of the United States Constitution, based primarily on the innate flaws in the system of the marketplace of ideas and the repercussions those flaws have on equality for minority groups and marginalized communities. In lieu of free speech absolutism, they propose legal action to regulate hate speech, which they consider both unnecessary to protect under the First Amendment as it stands, and especially problematic because of the long term and large scale psychological and tangible impact hate speech can have on its victims.

First and foremost, the authors frame their position with the claim that free speech and equality are merely superficially opposed; they claim that at their core, these values are actually interdependent, and that the strengthening of both is to the benefit of society as a whole.

Secondly, they emphasize that the negative impacts of hate speech are significant enough that we ought to be seriously concerned with minimizing its occurrence to the best of our ability. They go so far as to insist, in fact, that we are morally obligated to do so. Then to bolster this rarely disputed but seemingly idealistic statement, they go on to describe ways in which it is actually possible to incorporate constitutionally permissible hate speech regulation into speech legislation.

Throughout all of this, the one bit of common ground that the authors of *Must We Defend Nazis?* seem to clearly share with Dr. Keith E. Whittington, distinguished professor at Princeton University and author of *Speak Freely*, is the notion that healthy and well-rounded debate informs voters and is critical to building democracy. Their main point of disagreement seems to be over the necessary and sufficient elements of that “healthy and well-rounded” debate. While Whittington firmly defends the line of reasoning that Delgado and Stefancic summed up as the need to defend the speech we hate in order to protect the speech we love, Delgado and Stefancic wholeheartedly reject the idea that defending Nazi rhetoric, for example, is a necessary evil for the preservation of our right to freedom of expression. In simpler terms: where Whittington believes that free speech is an all-or-nothing concept, Delgado and Stefancic believe that it can be qualified without being destroyed.

When debates about free speech crop up in my personal life, I admit that they are rarely as carefully crafted or coolly handled as the kind of academic analysis/exchange we would expect to see between the respective authors of *Must We Defend Nazis?* and *Speak Freely*. The average person doesn’t typically feel the need to address the nuances of free speech unless they already feel their rights are being trampled--and that sort of frustration is never a good foundation for reasonable debate.

With that said, I try to focus my non-academic conversations about these issues on the more tangible ethics of interpersonal interaction and how people ought to conduct themselves on a daily basis. I try to remind others that we all simply expect to be given a voice, lent an ear, and responded to with kindness and consideration. At the end of the day, free speech is about providing a platform for civil debate, in an effort to reach mutual understanding, if not

consensus. Most importantly, I emphasize that whether you lean towards absolutism or qualified concepts of free speech, we must all agree that to disagree with each other is an entirely separate thing from disrespecting each other's humanity. The former is often fruitful; the latter is unacceptable.

Works Cited:

Delgado, R., & Stefancic, J. *Must We Defend Nazis?*. (2018). New York University Press.

Whittington, K. E. *Speak Freely: Why Universities Must Defend Free Speech*. (2018). Princeton University Press.