

Scouts' honor: A public-private confusion

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The Boy Scouts of America want to exclude gays, atheists and agnostics. They think they have the right to do so because they are, they claim, a private, voluntary organization. The BSA's convictions on this score have prompted a series of court cases across the country, with diverse results. The scouts have, on the surface, a strong case, and one that is important to religious people: Groups with distinct convictions should have the right to operate in the public square. It would be a perverse irony if, in the name of pluralism, the courts were to require private groups to alter their identity—forcing, for example, the NAACP to admit a member of the Ku Klux Klan. Part of what we mean by a liberal or pluralistic society is that it enables people to form groups that are not subject to government regulation, groups that can define their own identity and set their own criteria for admitting—or excluding—members.

What weakens the scouts' case, however, is that in some ways they act more like a public entity than a private group. For example, the scouts not only cooperate closely with government agencies, but are frequently sponsored by public schools and by police and fire departments. This fact was cited prominently by the New Jersey Supreme Court last month when it ruled that the scouts resemble a "public accommodation" and so did not have the right to dismiss an Eagle Scout for being gay.

Furthermore, it isn't obvious that teaching about sexuality and theism is central to the identity of the BSA. The scouts advise troop leaders to leave the discussion of sexual ethics to parents. As for Boy Scout religiosity, it is generic by design.

We recall attending one scout orientation meeting at which the scoutmaster explained that it didn't matter what God you believed in. "You can believe God is a tree or that fire hydrant. We don't care what God you believe in. But you have to believe in God."

This scoutmaster was clearly uneasy about the impossible mandate given to him by the BSA. On the one hand, he wanted to assert that belief in God is important; on the other hand, he wanted to forestall all religious discussion about what kind of God was being referred to. The result was an aggressive trivializing of belief, which would seem to do as much harm as good to the cause of authentic religion. If the scouts have so little interest in the nature of the God that members must acknowledge (it could be Yahweh or Wotan), then they are on pretty weak ground in claiming that belief in God is central to their identity.

The scouts are right that private groups should not be forced to give up their institutional identity. But at some point groups like the scouts have to decide what that identity is, public or private, and whether their beliefs are particular or generic. They can't have it both ways.