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Sameness and 'Diversity' on Campus

Why a California dean would force a black group to admit white supremacists.

By WILLIAM MCGURN



If ever you wonder why those thumping loudest for tolerance and diversity produce so much sameness, look no further than this little exchange on public television about an important case now before the Supreme Court. The dean is Leo Martinez of the University of California Hastings College of the Law. Here he is defending the school policy at issue, which requires the Christian Legal Society (CLS) to admit non-Christians and gays if it wants to be an official student group:

Question: "Would a student chapter of, say, B'nai B'rith, a Jewish Anti-Defamation League, have to admit Muslims?"

Mr. Martinez: "The short answer is 'yes.'"

Question: "A black group would have to admit white supremacists?"

Mr. Martinez: "It would."

Question: "Even if it means a black student organization is going to have to admit members of the Ku Klux Klan?"

Mr. Martinez: "Yes."

Question: "You can see where that might cause some consternation?"

Certainly there was some consternation yesterday at the Supreme Court. Justice Antonin Scalia found the idea of forcing a campus Republican club to admit Democrats "weird." Meanwhile, Justice Sonia Sotomayor worried whether allowing CLS to set its own rules would mean more discrimination against women and minorities.

But let's give Dean Martinez credit: He does not shy away from the logic of where his school's policy leads. His remarks help explain two facts. The first is why a Christian student organization has found strong allies among other faith groups. These include everyone from Agudath Israel of America and the American Islamic Congress to the Catholic bishops and the Sikh American Legal Defense and Education Fund.

The larger fact is the way that Hastings-style "tolerance" and "diversity" are actually making our campuses less tolerant and less diverse. Dean Martinez helps us see why. If every college group must admit even those who are hostile to its mission and beliefs, the result is nonsense and conformity.

At first blush, Hastings looks to be another example of the "culture wars," and where you stand on this case depends on what you believe about Christianity or traditional Christian teaching about homosexuality. Certainly Hastings tells us something about our culture wars. What it shows is how these kind of cultural skirmishes

escalate into full-fledged wars when state approval or state money is involved.

Were Hastings a private institution, the same right of association now claimed by the Christian Legal Society would give the law school broader rights to set more narrow rules for students and faculty. When a handful of Orthodox Jews sued Yale in the late 1990s over the university's insistence that they live in co-ed dormitories, for example, Yale prevailed—largely because Yale is a private university. And there was no larger religious war.

Even those of us who believe a university that prides itself on its tolerance could have shown a little more accommodation toward those Jewish students do not question Yale's right to set rules that define the Yale experience. When government is involved, however, the stakes become higher and passions more excited. When a public university makes a decision, it's not simply a policy dispute. It's a public institution using your tax dollars to put a state imprimatur about who is and who is not fit for the public square.

That's a much more serious proposition than a simple disagreement with some private organization. That public/private distinction helps explain why CLS has also found allies in the libertarian Cato Institute and Gays & Lesbians for Individual Liberty. In their own brief, this latter group stresses that it was the ability of gay Americans to form gay associations—whose membership rules they defined for themselves—that gave them a collective voice in the face of an often hostile majority.

Presumably Gays & Lesbians for Individual Liberty do not share the CLS view of human sexuality. But they understand exactly where Dean Martinez's logic is taking us.

"[U]nder Hastings' forced membership policy, only majority viewpoints (or those viewpoints too banal to interest the majority) are actually assured a voice in Hastings' forum," argues their brief. "That is a patently unreasonable way to 'promote a *diversity* of viewpoints.'"

Exactly. Traditionally the American contribution to diversity has been the encouragement of thriving—and competing—private institutions and associations. Unfortunately, on American campuses today we see the opposite: an expanding government role in everything from research to how schools are accredited and how student loans are administered. One unintended consequence is that our culture wars are going to escalate as our courts are forced to take up a great many more cases like Hastings.

It may end up, of course, that Dean Martinez prevails, and we get more of his idea of tolerance and diversity. Let's not pretend to be surprised, however, when it all comes out looking the same.

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