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June 8, 2012: How Do the Draft Cases Aid in Resolution of the Culture Wars?

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Title: How Do the Draft Cases Aid in Resolution of the Culture Wars?

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6/8/2012—I have been hard at work this week on an article, which I hope will become a book, trying to apply the draft cases of the Vietnam War to today's divisions between believers and nonbelievers. For background, see my post below from May 30 about *Seeger* and the other draft cases. What they did in essence is apply a religious conscientious objection exemption to persons of sincerely deep conviction against all war—persons who did not believe in God and who did not really consider themselves to be religious. The Supreme Court said in effect, you are religious.

I am suggesting that this approach—seeing nonbelievers as religious—including myself of course, but only for certain purposes, would be helpful in showing ourselves that we all share important common ground. Others in my field of law have a different starting point. They ask whether nonbelief is itself a belief and conclude that generally it is not. Or they ask whether nonbelievers are developing beliefs that are like religion.

If instead of such labeling, we asked what nonbelievers actually believe, we would often find—and here I speak personally—a sense of “transcendent moral obligation”—a sense that what I do is of infinite significance in the universe and that I am called to practice a particular way of life. In other words, many “believers” and “nonbelievers”—and now I have to use quotation marks for these terms—believe the same kinds of things. Some of those beliefs are very far from the beliefs of traditional religion in the cases of both “believers” and “nonbelievers”. Some of those beliefs will be very close to the beliefs of traditional religions, again in both cases.

Once this point is made in a way that penetrates the culture, the divide between believers and nonbelievers must inevitably recede. Once nonbelievers begin to ask what it means to feel the weight of infinite significance, they will stop speaking of “rationality” as the basis of life. And they may cease to regard believers as merely superstitious. It may even occur to nonbelievers that words like God might include and describe many of their own commitments. This is what I mean by the suggestion that the draft cases can heal our culture war divisions.

I use a number of examples to make this point. Ross Douthat's new book, *Bad Religion*. Andre Comte-Sponville—the author of the *The Little Book of Atheist Spirituality*--one of my favorite thinkers and Alain de Botton.

My final example is a short essay by the well-known atheist Austin Dacey in which he discusses the law of blasphemy related to his recent book, *The Future of Blasphemy*. Dacey makes the point that there is a symmetry between the commitments of the believer and those of the nonbeliever: “From a moral perspective, there is an important symmetry between the attitude of the believer who reserves special reverence for a deity, saint, or prophet, and the attitude of the secularist who asserts that every person is equally holy. Neither of these beliefs is uniquely deserving of being labeled a spiritual commitment, relegating the other to mere ‘speech’ against that commitment.”

While Dacey is arguing a different point from mine here—Dacey is arguing that atheists deserve protection as much as do religious believers—his premise is my thesis: that persons who do not believe in God still dwell in a world, still speak the language, still make commitments to and still are in relationship with, the sacred. And because of that, the draft recognized them as eligible for religious exemption.

At this point I have to say, what is the problem? Why are we divided? Once believers are seen as nonbelievers and nonbelievers as believers, it will be easier for us to talk with each other.

But this recognition places a burden on persons not affiliated with traditional religion. For whereas many traditional believers really are willing to admit that they are not genuinely believers—that is just akin to admitting that we are all sinners—we secularists have been unwilling to press our beliefs beyond insipid clichés about rationality. We “nonbelievers” must begin to ask what it is we believe and affirm. In a general sense, we affirm significance, objectivity and meaning. But we have not yet made these general commitments definite. Insofar as the draft cases are willing to grant religious exemption to a beliefs that “occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God of one who clearly qualifies for the exemption,” we now must ask in a serious way, what kind of nontheistic, nonreligious belief is parallel to a belief in the orthodox God?