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### August 4, 2012: Religious Exemptions

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Title: Religious Exemptions

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8/4/2012—I am presenting a paper in October at Elon Law School on the subject of religious exemptions from the requirements of law. Religious exemptions are the place where America currently debates the value of religion. As Douglas Laycock once put it, religious believers tend to think all claimed religious exemptions should be granted while nonbelievers seem to feel that they should generally be rejected. There are some exceptions. Austin Dacey, for example, in writing about blasphemy law as a nonbeliever in any organized religion—The Future of Blasphemy—can still appreciate the importance of the sacred. Because of the tendency to either/or thinking and a kind of religious partisanship, the debate over exemptions has been very divisive. What is needed is a new starting point. The problem is the idea that religion is some kind of separate endeavor, only for some, which is how both sides look at religion. This leads the nonbeliever to minimize the significance of religion, as if it were like any other interest group. Why should any group be outside the law? For the believer, the image of religion as separate leads to a defensive posture and us/them thinking. We believers are under attack and must get all we can. Compromise with nonbelievers is heresy. A new starting point would suggest what is the case—that people are generally engaged in a search for the meaning of existence. And that we are looking for the truth of existence, not a matter of opinion. Yes, most people call this the search for God. But even among this group, God is not a thing to be grasped. And for those of us who do not regard the search in terms of God, we are looking for the ground of being (even if that ground turns out to be groundless, as Martin Heidegger asks). But of course, “ground of being” is precisely the term Paul Tillich used for God. That just shows how close we all are, how much common ground there is. A perspective of common ground would lessen our tendency to reflexive support and opposition to claims of religious exemption. For the nonchurchgoer, that would mean respect for the traditional religions, which have helped so many in their quest for the meaning of existence. And it would suggest a generosity toward assertions of religious exemption. For the traditional believer, the common ground would move the issue of exemptions away from the question of exclusive truth, toward recognition of the harm that exemptions can do and the need for adjustment in the public square. Overall the recognition of common ground would aid us in the formulation of compromise in the area of religious exemptions.