# Black: Opinion of the Court

MR. JUSTICE BLACK announced the judgment of the Court and delivered an opinion in which MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, and MR. JUSTICE MARSHALL join.

The petitioner, Elliott Ashton Welsh II, was convicted by a United States District Judge of refusing to submit to induction into the Armed Forces in violation of 50 U.S.C.App. § 462(a), and was, on June 1, 1966, sentenced to imprisonment for three years. One of petitioner's defenses to the prosecution was that § 6(j) of the Universal Military Training and Service Act exempted him from combat and noncombat service because he was "by reason of religious training and belief . . . conscientiously opposed to participation in war in any form."[[1]](#footnote-1) After finding that there was no religious basis for petitioner's conscientious objector claim, the Court of Appeals, Judge Hamley dissenting, affirmed the conviction. 404 F.2d 1078 (1968). We granted certiorari chiefly to review the contention that Welsh's conviction should be set aside on the basis of this Court's decision in *United States v. Seeger,*380 U. S. 163 (1965). 396 U.S. 816 (1969). For the reasons to be stated, and without passing upon the constitutional arguments that have been raised, we vote to reverse this conviction because of its fundamental inconsistency with *United States v. Seeger, supra.*

The controlling facts in this case are strikingly similar to those in *Seeger.* Both Seeger and Welsh were brought up in religious homes and attended church in their childhood, but in neither case was this church one which taught its members not to engage in war at any time for **[p. 336]** any reason. Neither Seeger nor Welsh continued his childhood religious ties into his young manhood, and neither belonged to any religious group or adhered to the teachings of any organized religion during the period of his involvement with the Selective Service System. At the time of registration for the draft, neither had yet come to accept pacifist principles. Their views on war developed only in subsequent years, but, when their ideas did fully mature, both made application to their local draft boards for conscientious objector exemptions from military service under § 6(j) of the Universal Military Training and Service Act. That section then provided, in part:[[2]](#footnote-2)

"Nothing contained in this title shall be construed to require any person to be subject to combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. Religious training and belief in this connection means an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code."

In filling out their exemption applications, both Seeger and Welsh were unable to sign the statement that, as printed in the Selective Service form, stated, "I am, by reason of my religious training and belief, conscientiously **[p. 337]** opposed to participation in war in any form." Seeger could sign only after striking the words "training and" and putting quotation marks around the word "religious." Welsh could sign only after striking the words "my religious training and." On those same applications, neither could definitely affirm or deny that he believed in a "Supreme Being," both stating that they preferred to leave the question open.[[3]](#footnote-3) But both Seeger and Welsh affirmed on those applications that they held deep conscientious scruples against taking part in wars where people were killed. Both strongly believed that killing in war was wrong, unethical, and immoral, and their consciences forbade them to take part in such an evil practice. Their objection to participating in war in any form could not be said to come from a "still, small voice of conscience"; rather, for them, that voice was so loud and insistent that both men preferred to go to jail rather than serve in the Armed Forces. There was never any question about the sincerity and depth of Seeger's convictions as a conscientious objector, and the same is true of Welsh. In this regard the Court of Appeals noted, "[t]he government concedes that [Welsh's] beliefs are held with the strength of more traditional religious convictions." 404 F.2d at 1081. But, in both cases, the Selective Service System concluded that the beliefs of these men were in some sense insufficiently "religious" to qualify them for conscientious objector exemptions under the terms of § 6(j). Seeger's conscientious objector claim was denied "solely because it was not based upon a *belief in a relation to a Supreme Being,' as required by § 6(j) of the Act," United States v. Seeger,*380 U. S. 163, 380 U. S. 167 (1965), while Welsh was **[p. 338]** denied the exemption because his Appeal Board and the Department of Justice hearing officer "could find no religious basis for the registrant's beliefs, opinions and convictions." App. 52. Both Seeger and Welsh subsequently refused to submit to induction into the military, and both were convicted of that offense.

In *Seeger,* the Court w as confronted, first, with the problem that § 6(j) defined "religious training and belief" in terms of a "belief in a relation to a Supreme Being . . . ," a definition that arguably gave a preference to those who believed in a conventional God, as opposed to those who did not. Noting the "vast panoply of beliefs" prevalent in our country, the Court construed the congressional intent as being in "keeping with its long-established policy of not picking and choosing among religious beliefs," *id.* at 380 U. S. 175, and accordingly interpreted "the meaning of religious training and belief so as to embrace *all*religions. . . ." *Id.* at 380 U. S. 165. (Emphasis added.) But, having decided that all religious conscientious objectors were entitled to the exemption, we faced the more serious problem of determining which beliefs were "religious" within the meaning of the statute. This question was particularly difficult in the case of Seeger himself. Seeger stated that his was a "belief in and devotion to goodness and virtue for their own sakes, and a religious faith in a purely ethical creed." 380 U.S. at 380 U. S. 166. In a letter to his draft board, he wrote:

"My decision arises from what I believe to be considerations of validity from the standpoint of the welfare of humanity and the preservation of the democratic values which we in the United States are struggling to maintain. I have concluded that war, from the practical standpoint, is futile and self-defeating, and that, from the more important moral standpoint, it is unethical."

326 F.2d 846, 848 (1964). **[p. 339]** On the basis of these and similar assertions, the Government argued that Seeger's conscientious objection to war was not "religious," but stemmed from "essentially political, sociological, or philosophical views, or a merely personal moral code."

In resolving the question whether Seeger and the other registrants in that case qualified for the exemption, the Court stated that "[the] task is to decide whether the beliefs professed by a registrant are sincerely held and whether they are, *in his own scheme of things,*religious." 380 U.S. at 380 U. S. 185. (Emphasis added.) The reference to the registrant's "own scheme of things" was intended to indicate that the central consideration in determining whether the registrant's beliefs are religious is whether these beliefs play the role of a religion and function as a religion in the registrant's life. The Court's principal statement of its test for determining whether a conscientious objector's beliefs are religious within the meaning of § 6(j) was as follows:

"The test might be stated in these words: a sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the God of those admittedly qualifying for the exemption comes within the statutory definition."

380 U.S. at 380 U. S. 176. The Court made it clear that these sincere and meaningful beliefs that prompt the registrant's objection to all wars need not be confined in either source or content to traditional or parochial concepts of religion. It held that § 6(j) "does not distinguish between externally and internally derived beliefs," *id.* at 380 U. S. 186, and also held that "intensely personal" convictions which some might find "incomprehensible" or "incorrect" come within the meaning of "religious belief" in the Act. *Id.* at 380 U. S. 184-185. What is necessary under *Seeger* for a registrant's conscientious **[p. 340]** objection to all war to be "religious" within the meaning of § 6(j) is that this opposition to war stem from the registrant's moral, ethical, or religious beliefs about what is right and wrong and that these beliefs be held with the strength of traditional religious convictions. Most of the great religions of today and of the past have embodied the idea of a Supreme Being or a Supreme Reality -- a God -- who communicates to man in some way a consciousness of what is right and should be done, of what is wrong and therefore should be shunned. If an individual deeply and sincerely holds beliefs that are purely ethical or moral in source and content, but that nevertheless impose upon him a duty of conscience to refrain from participating in any war at any time, those beliefs certainly occupy in the life of that individual "a place parallel to that filled by . . . God" in traditionally religious persons. Because his beliefs function as a religion in his life, such an individual is as much entitled to a "religious" conscientious objector exemption under § 6(j) as is someone who derives his conscientious opposition to war from traditional religious convictions.

Applying this standard to Seeger himself, the Court noted the "compulsion to *goodness'*"that shaped his total opposition to war, the undisputed sincerity with which he held his views, and the fact that Seeger had "decried the tremendous `spiritual' price man must pay for his willingness to destroy human life." 380 U.S. at 380 U. S. 186-187. The Court concluded:

"We think it clear that the beliefs which prompted his objection occupy the same place in his life as the belief in a traditional deity holds in the lives of his friends, the Quakers."

380 U.S. at 380 U. S. 187. Accordingly, the Court found that Seeger should be granted conscientious objector status.

In the case before us, the Government seeks to distinguish our holding in *Seeger* on basically two grounds, **[p. 341]** both of which were relied upon by the Court of Appeals in affirming Welsh's conviction. First, it is stressed that Welsh was far more insistent and explicit than Seeger in denying that his views were religious. For example, in filling out their conscientious objector applications, Seeger put quotation marks around the word "religious," but Welsh struck the word "religious" entirely, and later characterized his beliefs as having been formed "by reading in the fields of history and sociology." App. 22. The Court of Appeals found that Welsh had "denied that his objection to war was premised on religious belief," and concluded that "[t]he Appeal Board was entitled to take him at his word." 404 F.2d at 1082. We think this attempt to distinguish *Seeger* fails for the reason that it places undue emphasis on the registrant's interpretation of his own beliefs. The Court's statement in *Seeger* that a registrant's characterization of his own belief as "religious" should carry great weight, 380 U.S. at 380 U. S. 184, does not imply that his declaration that his views are nonreligious should be treated similarly. When a registrant states that his objections to war are "religious," that information is highly relevant to the question of the function his beliefs have in his life. But very few registrants are fully aware of the broad scope of the word "religious" as used in § 6(j), and accordingly a registrant's statement that his beliefs are nonreligious is a highly unreliable guide for those charged with administering the exemption. Welsh himself presents a case in point. Although he originally characterized his beliefs as nonreligious, he later, upon reflection, wrote a long and thoughtful letter to his Appeal Board in which he declared that his beliefs were "certainly religious in the ethical sense of the word." He explained:

"I believe I mentioned taking of life as not being, for me, a religious wrong. Again, I assumed Mr. [Brady (the Department of Justice hearing **[p. 342]** officer)] was using the word 'religious' in the conventional sense, and, in order to be perfectly honest, did not characterize my belief as 'religious.'"

App. 44.

The Government also seeks to distinguish *Seeger* on the ground that Welsh's views, unlike Seeger's, were "essentially political, sociological, or philosophical views, or a merely personal moral code." As previously noted, the Government made the same argument about Seeger, and not without reason, for Seeger's views had a substantial political dimension. *Supra* at 398 U. S. 338-339. In this case, Welsh's conscientious objection to war was undeniably based in part on his perception of world politics. In a letter to his local board, he wrote:

"I can only act according to what I am and what I see. And I see that the military complex wastes both human and material resources, that it fosters disregard for (what I consider a paramount concern) human needs and ends; I see that the means we employ to 'defend' our 'way of life' profoundly change that way of life. I see that, in our failure to recognize the political, social, and economic realities of the world, we, *as a nation,* fail our responsibility *as a nation.*"

App. 30. We certainly do not think that § 6(j)'s exclusion of those persons with "essentially political, sociological, or philosophical views or a merely personal moral code" should be read to exclude those who hold strong beliefs about our domestic and foreign affairs or even those whose conscientious objection to participation in all wars is founded to a substantial extent upon considerations of public policy. The two groups of registrants that obviously do fall within these exclusions from the exemption are those whose beliefs are not deeply held and those whose objection to war does not rest at all upon moral, ethical, or religious principle, but instead rests solely upon **[p. 343]** considerations of policy, pragmatism, or expediency. In applying § 6(j)'s exclusion of those whose views are "essentially political, sociological, or philosophical" or of those who have a "merely personal moral code," it should be remembered that these exclusions are definitional, and do not therefore restrict the category of persons who are conscientious objectors by "religious training and belief." Once the Selective Service System has taken the first step and determined under the standards set out here and in *Seeger* that the registrant is a "religious" conscientious objector, it follows that his views cannot be "essentially political, sociological, or philosophical." Nor can they be a "merely personal moral code."*See United States v. Seeger,* 380 U.S. at 380 U. S. 186.

Welsh stated that he "believe[d] the taking of life -- anyone's life -- to be morally wrong." App. 44. In his original conscientious objector application, he wrote the following:

"I believe that human life is valuable in and of itself; in its living; therefore, I will not injure or kill another human being. This belief (and the corresponding 'duty' to abstain from violence toward another person) is not 'superior to those arising from any human relation.' On the contrary: it is essential to every human relation. I cannot, therefore, conscientiously comply with the Government's insistence that I assume duties which I feel are immoral and totally repugnant."

App. 10. Welsh elaborated his beliefs in later communications with Selective Service officials. On the basis of these beliefs and the conclusion of the Court of Appeals that he held them "with the strength of more traditional religious convictions," 404 F.2d at 1081, we think Welsh was clearly entitled to a conscientious objector exemption. Section **[p. 344]** 6(j) requires no more. That section exempts from military service all those whose consciences, spurred by deeply held moral, ethical, or religious beliefs, would give them no rest or peace if they allowed themselves to become a part of an instrument of war.

The judgment is

*Reversed.*

MR. JUSTICE BLACKMUN took no part in the consideration or decision of this case.

1. 162 Stat. 612. See also 50 U.S.C.App. § 456(j). The pertinent provision as it read during the period relevant to this case is set out infra at 398 U. S. 336. [↑](#footnote-ref-1)
2. 62 Stat. 612. An amendment to the Act in 1967, subsequent to the Court's decision in the Seeger case, deleted the reference to "Supreme Being" but continued to provide that "religious training and belief" does not include "essentially political, sociological, or philosophical views, or a merely personal moral code." 1 Stat. 104, 50 U.S.C.App. § 456(j) (1964 ed., Supp. IV). [↑](#footnote-ref-2)
3. In his original application in April, 1964, Welsh stated that he did not believe in a Supreme Being, but, in a letter to his local board in June, 1965, he requested that his original answer be stricken and the question left open. App. 29. [↑](#footnote-ref-3)