



# Conscience and Peace Tax International

**Internacional de Conciencia e Impuestos para la Paz**

NGO in Special Consultative Status with the Economic and Social Council of the UN

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Item 6: Universal Periodic Review

ORAL STATEMENT BY CONSCIENCE AND PEACE TAX INTERNATIONAL  
Delivered by **Derek Brett**, CPTI Representative in Geneva, Thurs. 24<sup>th</sup> September 2009

## ADOPTION OF UPR REPORT ON CHILE

CPTI would like to comment on paragraph 53 of the Report of the Working Group, in which Chile states that it “has enriched the law on “due obedience” to “reflexive obedience” that allows the subordinate to disobey an order if it means the committing of a crime.” and that “The objection of conscience to military service is available to relatives of the victims of human rights violations of the past.”

This statement was in reply to questions about military law and about compensation and reparations for human rights violations under the former dictatorship.

While it is of course commendable that relatives of victims are exempted from the obligation to perform military service, this is an extension of the compassionate exemption extended by many States to the close relatives of those killed or disabled in the course of such service. It is not a question of conscientious objection.

Chile was perhaps fortunate not to have been asked directly about conscientious objection to military service. In recent years it has been able to fill its military service needs entirely with volunteers. However all young men are still registered for military service and in the event that not enough volunteers are forthcoming in a particular year, the law still permits the military to make up numbers by selecting young men for obligatory service, without any recognition of conscientious objectors.

The refusal of illegal orders, too, is in theory an obligation, not a matter of conscientious objection. Illegality can however be very hard to prove on the ground at the time. So any change giving more protection to military personnel who attempt to refuse illegal orders is to be commended, and it is worth taking note of the case in the German Administrative Court (BVerwG, 2 WS 12.04, 21 June 2005) in which the sincere and reasonable belief of an officer that an assignment he had been given was contrary to international law was treated as a conscientious objection, and on that basis the disciplinary action taken against him was overruled.

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