



## 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**, Thursday 9<sup>th</sup> June 2011

### ADOPTION OF UPR REPORT ON PARAGUAY

Conscience and Peace Tax International (CPTI) welcomes the acceptance by Paraguay of the recommendation that it should "Ensure the effective exercise of the right to conscientious objection and ensure that no minor (under 18) is recruited into the Armed Forces"<sup>1</sup> These were among the recommendations which Paraguay considers to be already implemented or in the course of implementation.

CPTI salutes the progress made by Paraguay in both of these fields since the 1990's. With regard to juvenile recruitment we welcome the replacement of the original declaration on ratifying the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which specified a voluntary recruitment age of 16, by a declaration that the minimum age for recruitment was 18 and the promulgation of Law No. 3360 in November 2007, which specified that in no case might military service be embarked upon before the age of 18. We encourage Paraguay to be vigilant in eliminating breaches of these conditions in practice as a result of features such as a low rate of birth registrations and irregular methods of recruitment.

With regard to conscientious objection to military service: As reported to the Human Rights Committee in 2005, this right was first in the 1992 Constitution, article 129 of which "lays down the general principles governing the procedures involved, such as the simple declaration, the exclusive or exclusionary jurisdiction of civilian bodies, exemption from punishment and establishment of obligations for those who declare themselves to be objectors"<sup>2</sup> and further stating (article 129.5): "Those who declare their conscientious objection are to perform service beneficial to the civilian population in aid centres designated by law and operated under civilian jurisdiction. The laws

<sup>1</sup> A/HRC/17/18, Para 85.35 (recommendation by Slovenia).

<sup>2</sup> CCPR/C/PRY/2004/2, para 457.

implementing the right to conscientious objection shall neither be punitive nor impose burdens heavier than those imposed by military service." In 1994, "in view of the lack of regulatory legislation, the Human Rights Committee of the Chamber of Deputies agreed (...) to receive declarations from conscientious objectors and to approve their registration on a provisional basis, thereby exempting the objectors from military service until such time as the law established a public body to take responsibility for organizing alternative service."<sup>3</sup>

Subsequently, departmental human rights commissions also accepted such declarations, reducing the discrimination in access to the constitutional right against those living in more remote parts of the country. For sixteen years, conscientious objectors in Paraguay arguably encountered the most favourable conditions anywhere in the world; a simple declaration obtained official recognition of their status, and pending the establishment of an alternative service system they were not required to perform any such service.

On 17<sup>th</sup> June 2010, however, this gap was filled by Law 4013 which contains various worrying elements.

First, it retreats from the simple declaration and the principle of civilian control which were reportedly guaranteed in the constitution, instead setting up a Commission to investigate applications for recognition as conscientious objectors, one of the members of which will be a representative of the Ministry of Defence.

Second, it requires applications for recognition as conscientious objectors to be lodged within 20 days of the initial call-up to military service. This is a retreat from recognised best practice that conscientious objections should be recognised at any time, including by those already performing military service.<sup>4</sup>

Most disturbing of all are certain retrospective features of the law. All the estimated 140,000 recognised as conscientious objectors by the Human Rights Committee of the Chamber of Deputies, even those now past the age for military service, are now required to perform an alternative service, or to pay a fee equivalent to five minimum salaries. An estimated 30,000 recognitions granted on the basis of declarations before Departmental Commissions are no longer to be honoured; the position of those concerned is thus uncertain. Moreover, it has been reported that knowledge of the procedures to be allowed to apply for conscientious objector status under the new legislation is not widespread among those affected.<sup>5</sup>

CPTI calls upon Paraguay to review the features of the new law which retreat from recognised standards for the recognition of conscientious objection, and to repeal the retrospective elements.

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<sup>3</sup> Ibid, para 459.

<sup>4</sup> See, for example the preamble to Commission on Human Rights Resolution 1998/77.

<sup>5</sup> *Ultima Hora*, 4<sup>th</sup> February 2011, quoted in War Resisters International, CO Update No.64 (March / April 2011).