



# 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

International non-profit organization (Belgium 15.075/96)

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## **Submission to the 94th Session of the Human Rights Committee: October 2008 Conscientious Objection to Military Service: AUSTRALIA**

Australia has the distinction of having been the first country to have introduced legislative provisions recognising conscientious objection to military service. These were attached to the Defence Act of 1903 which enabled conscription. In fact, however, the provisions of that Act were not implemented until 1939; they did not apply to a compulsory military training scheme which operated between 1911 and 1929. Conscription was suspended at the end of the 1939-1945 War, but was reinstated between 1951 and 1959 and again between 1965 and the end of the Vietnam War in 1973.

The basic provisions of the Defence Act regarding the recognition of conscientious objection would still apply in the event that Australia was to reintroduce conscription at a future date. However, under the Defence Legislation Amendment Act of 1992, this step could be taken only with prior parliamentary approval. The 1992 Act also broke new ground by stipulating that those exempted from military service include not only “persons whose conscientious beliefs do not permit them to participate in war or warlike operations” but also “persons whose conscientious beliefs do not allow them to participate in a particular war or particular warlike operations”<sup>1</sup> This is the broadest legislative recognition of “selective objection” which currently exists. It is also possible that such exemption would be total; no alternative service requirement is mentioned in the Act.

It is claimed that “CO is available to volunteers in the defence force during peacetime by administrative practice, that is by applying for release from the ADF (Australian Defence Force)”<sup>2</sup> No details have however been traced of specific regulations or procedures for applying. It is however known that the possibility of selective objection is not available to serving members of the armed forces.

<sup>1</sup> Section 61A, sub paragraphs (i) and (j)

<sup>2</sup> Coombs, M. and Rayner, L., Department of the Parliamentary Library Research Note No. 31, 11 April 2003, Canberra.

**CPTI suggests that Australia be asked in the list of issues to confirm what would be the position of a serving member of the armed forces who applied for release having developed a conscientious objection. What procedures should be followed; what would the terms of release be if the authorities were satisfied that the objection was genuine? Have there been any such cases in recent years? Would the situation be different in time of war?**

18<sup>th</sup> August 2008