



# Conscience and Peace Tax International

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## **Submission to the 89th Session of the Human Rights Committee: March 2007 Conscientious Objection to Military Service: Issues for the Country Report Task Forces COSTA RICA**

**SUMMARY: The lack of any legislative recognition of conscientious objection in Costa Rica might seem irrelevant given that it has not had military forces since 1948. The possibility of the issue arising in future is not however completely precluded. Meanwhile, Costa Rica may be called on to give protection to persons particularly from Colombia who are refugees because of their conscientious objection.**

Alone among Central American states, Costa Rica has not been involved in a war since independence from Spain in 1821. With effect from December 1948 the national army was disbanded - a decision subsequently enshrined in Article 12 of the 1949 Constitution: "The Army as a permanent institution is proscribed. Surveillance and the maintenance of public order are ensured by the necessary police forces." Costa Rica thus became the first instance of voluntary demilitarisation by a state of any significant population,<sup>1</sup> without ever going through a stage when military service was retained but individual conscientious objection respected.

It might be argued that the demilitarisation is more apparent than real; in the form of the paramilitary *Guardia Civil*, the Border Security Police and the Rural Guard militias the state employs some 8,400 uniformed and potentially armed personnel, and the defence budget in 2005 was \$101m.<sup>2</sup> These forces are however firmly under civilian control and none are armed or equipped to counteract a serious military assault on the country. The question of release on grounds of conscience might conceivably apply only if one of their volunteer personnel subsequently developed an absolute objection to bearing lethal weapons

<sup>1</sup> See Barbey, C., La non-militarisation et les pays sans armée: une réalité, APRED, Flendruz, Switzerland, 2001, especially pp 30-31.

<sup>2</sup> International Institute for Strategic Studies, The Military Balance, 2005/6, Routledge, London, pp. 331,332.

In the unlikely event that it was invaded Costa Rica would in the first instance probably call upon the diplomatic assistance of the Organisation of American States; this sufficed to deal with an incursion from Nicaragua in 1955.<sup>3</sup> Article 12 of the Constitution does however retain the possibility of raising a military force either in accordance with a pan-American agreement or when this is essential for national defence; the Costa Rican government responded to the survey by Eide and Mubanga-Chipoya in 1983 that “In that case military service will be compulsory... In case of establishment of military forces, males between 18 and 60 are liable to military service; exemption can be granted for poor health or physical defects and to persons in holy orders, save in the event of mobilization; temporary exemption exists for some professional categories.”<sup>4</sup> ***Should such conscription ever prove necessary conscientious objectors ought to be added to the list of those who would be exempted.***

Over the years Costa Rica has been prominent in promoting peace and demilitarisation in the region; President Oscar Arias Sánchez was awarded the 1988 Nobel Peace Prize for his role in the *Esquipulas II* accord signed by Costa Rica and its northern neighbours, Nicaragua, Honduras, El Salvador and Guatemala; the example set by Costa Rica of disbanding its armed forces was followed in 1994 by its southern neighbour, Panama.

It has also had an exemplary record in dealing with refugees; United Nations High Commission for Refugees refers to Costa Rica’s “long history of respect for the principles of asylum and international protection of refugees”<sup>5</sup> and has in the past commended “the prompt and effective refugee determination process... and that Costa Rica generally grants refugees the same rights as citizens.”<sup>6</sup> This, together with its peaceful history has attracted many refugees from the region’s various conflict zones and it has one of the highest proportions of refugees to total population in the world. At the end of 2003, according to the US Committee for Refugees and Immigrants, there were 2,600 Nicaraguans, 1,200 Cuban and 790 Salvadorean refugees, but the biggest group by far were the approximately 8,500 Colombians; it was estimated that a further 20,000 or more Colombians were in the country who had not sought, or had failed to obtain, formal refugee status. Whereas the other groups were shrinking, Colombians have continued to arrive and very few have returned. Not surprisingly in these circumstances, Costa Rica is coming under pressure to tighten the screening of arrivals.<sup>7</sup>

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<sup>3</sup> Mongeau, S. (Ed.) *Pour un pays sans armée: ou comment assurer la sécurité sans armée*, Editions Ecosociété, Montréal, 1993, pp. 75-76.

<sup>4</sup> Eide, A. & Mubanga-Chipoya, C.L.C, *Conscientious objection to military service*, (Report prepared in pursuance of resolutions 14(XXXIV) and 1982/30 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities), 1985, United Nations Sales No. E.85.XIV.I, as quoted by Horeman, B. & Stolwijk, M., *Refusing to Bear Arms*, War Resisters International, London, 1998. (<http://wri-irg.org/co/rtba/costarica.htm>).

<sup>5</sup> UNHCR, *Country Operations Plan, Overview, Costa Rica, Planning Year 2006*, p.2, in UNHCR Refworld 2006 ([www.unhcr.org/refworld](http://www.unhcr.org/refworld))

<sup>6</sup> US Committee for Refugees and Immigrants, (2003) Costa Rica, in UNHCR Refworld 2006 ([www.unhcr.org/refworld](http://www.unhcr.org/refworld))

<sup>7</sup> UNHCR, op. cit.

Few states in the region give legislative recognition to conscientious objection. With Costa Rican encouragement several<sup>8</sup> have reduced the size of their armed forces so that they are able in practice to rely on volunteers; in Colombia, however, obligatory military service is still enforced, with no allowance for conscientious objection. Nor are conscientious objections any protection against forcible recruitment into non-governmental armed groups. Indeed, those who resist embroilment in the civil conflict, including the inhabitants of self-declared “zones of peace”, are typically seen by each side as sympathisers or active collaborators with the other, and often risk assassination. *It is therefore important that the Costa Rican authorities should be sensitive to the particular need for protection of declared or effective conscientious objectors from Colombia and should give especially careful attention to claims for refugee status on the grounds of conscientious objection.*

13<sup>th</sup> February, 2007

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<sup>8</sup> Eg. Honduras, see briefing prepared by CPTI for the 88<sup>th</sup> Session of the Human Rights Committee.