

FREEDOM OF CONSCIENCE V. REQUIRED TAXATION:
EXPLORING THE CONFLICT TRANSFORMATION
AGENCY OF THE RELIGIOUS FREEDOM
PEACE TAX FUND ACT

by

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THESIS ABSTRACT

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Refusing to participate in war does not only mean refusing to serve in the military. For many conscientious objectors, it means refusing to pay taxes that directly support the military industrial complex. Conscientious tax objectors risk many punishments by withholding tax money that supports war. Politico-social conflicts exist between a citizen's legal obligation to pay taxes and the personal obligation to her/his moral beliefs. My research suggests that the Religious Freedom Peace Tax Fund Act (RFPTFA) may be one transformative agent for this conflict.

Through examination of relevant case law, statutes, conflict transformation literature, and interviews with conscientious tax objectors, my investigation concludes that members of the conscientious tax objector movement disagree on the merits of RFPTFA. My research suggests that until these various intermovement factions enter into consensus-building dialogue, conscientious tax objection will remain a mere symbolic method of pacifism rather than a powerful tool in the art of peacebuilding.

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To the children of at-Tuwani,
who taught me the meaning of *ashray*,
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and helped me remember my walk forth calling.

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CHAPTER I

INTRODUCTION

If you work for peace, stop paying for war. I read this slogan on a bumper sticker attached to a bicycle parked at the Friends Meeting House in Eugene, Oregon, during the fall of 2008. I was at the meetinghouse preparing to attend my first National War Tax Resistance Coordinating Committee's (N.W.T.R.C.C.) Annual Gathering. After reading the slogan I thought to myself- I do work for peace, am I paying for war? My bumper sticker moment was only the first of many eye-opening experiences I encountered at the annual gathering. Examining The War Resisters League's U.S. Federal Budget Pie Chart (See Appendix A) remains for me the most powerful perspective changer.

Viewing the pie chart marked by two areas, a pink area (Military) and a black area (Non-Military), which symbolize unbalanced fiscal allocations, the effects of the resource distribution became apparent. The United States Federal Government allocates 48% of all Federal income tax dollars to past and present Military spending thus leaving only 52% of all Federal income tax dollars to pay for life-affirming expenditures through agencies like: Health and Human Services, the Social Security Administration, Food and Nutritional programs, Housing and Urban Development, and Environmental Protection to name a few (War Resisters League, 2012). Many at the gathering repeated the same statement, "Imagine the needs that are unmet because of our government's allocation of resources." It slowly became apparent to me that the Federal income tax paid by individuals is essential to the continuance of the depravity of war.

Once I better understood the allocation and distribution of Federal income tax dollars, I realized that the bumper sticker was speaking to me. I do work for peace and

obviously I, like most working individuals in the United States who have a Federal income tax liability, pay for war. Ignorance, for me, was truly bliss. As I began to know more I wanted to act better and to do better. Next I asked, what can I do? How can I, who works and prays for peace, not pay for war? At the gathering and later during conversations with prominent peace activists the answers remained the same- resist war taxes and become a conscientious tax objector. Besides those two answers, I heard from a few activists, a third, perhaps more conciliatory approach, support the Religious Freedom Peace Tax Fund Act. This third answer ultimately provided the impetus for my thesis. As I researched The Fund I became increasingly aware of the conflicted nature of the conscientious tax objector movement. While pursuing the question of why does the Religious Freedom Peace Tax Fund Act receive little congressional support and produce nominal results, I ultimately focused my attention on the conflict within the movement.

1.1. Purpose of Study

Paying taxes that are used for war has long been a vexing problem for those whose conscience forbids direct participation in war. If it is wrong to take up arms and kill, then is it not equally wrong to provide the means for another to commit the same acts? A conventional escape from this dilemma is found in the legal obligation to pay taxes. Payment is compelled, not voluntary, and thus one's conscience remains clear; but conscientious tax objectors argue otherwise. In this thesis, I develop the concept of freedom of conscience at conflict with required taxation. The concept is developed through a conflict transformation case study that examines how the components of conscience, the common good, and conflict transformation are in conversation. My study

shows how the conscientious tax objector movement¹ is a microcosm of the complex interactions alive within a democracy.

Freedom of conscience was a core ideology of the founders of the United States of America. Most colonial governments had mechanisms for objection to conscription due to moral conscience. (National War Tax Resistance Coordinating Committee, 2004) Many, including members of the Religious Society of Friends, Mennonite, and Church of the Brethren, immigrated in order to escape persecution for their refusal to participate in any kind of warfare (National War Tax Resistance Coordinating Committee, 2004). Yet, during the First World War, many conscientious objectors were imprisoned and persecuted for these beliefs. The United States Congress passed legislation in 1940 establishing alternative service for drafted conscientious objectors. (Seeley, 1994) However, for many conscientious objectors, using their tax dollars to fund war is as reprehensible as being compelled to participate in war. Conscientious tax objectors risk fines, wage garnishment, property seizures, and jail sentences by withholding tax money that supports war. Political and social conflicts exist between the legal obligation of a citizen to pay taxes and the personal obligation to uphold her/his moral beliefs (Lull, 1979)(National War Tax Resistance Coordinating Committee, 2008).

My case study was conducted through an examination of relevant case law, statutes, conflict transformation literature, a series of informal conversations, and formal interviews with current and former conscientious tax objectors. My investigation concludes that members of the conscientious tax objector movement are in conflict. As John Paul Lederach (1995) suggests, conflicts are dialectic and, as such, cannot be

¹ For the purpose of clarity, in this thesis, tax resistance, war tax resistance, and conscientious tax resistance are all referred to as conscientious tax objection.

solved; but can be transformed. My research suggests that the Religious Freedom Peace Tax Fund Act may be one possible transformative agent for this conflict.

1.2. Freedom of Conscience in the United States

Democracy, as it is known in the United States of America, is rule by the majority. However, the voice of the minority is rarely silent. Furthermore, in the era of the Occupy Movement² with such slogans as, “This is our county; we will occupy it. These are our streets; we will occupy them. We are here; we are growing. We are the 99%,” the majority’s voice is increasingly represented. Criticism, critique, and nonviolent civil disobedience are legally sanctioned democratic actions within the United States of America. Moreover, the protection of the right to dissent and the right to voice that dissent are constitutionally protected by the Constitution. (United States Constitution amendment I)

One such legally protected act of dissention is the right to conscientiously object to war. The Universal Military Training and Service Act, as amended, provides in part that, “no person will be subjected to combatant training and service in the U.S. armed forces if that person, owing to religious training and belief, is opposed to participating in war in any form” (50 U.S.C. App. § 456(j)). Further, conscientious objectors (COs) hold religious and/or secular convictions that all forms of war are morally wrong. For the conscientious objector, this belief is not a temporary or insignificant belief, but one that compels her/ him into action. In *Welsh v. United States*, 398 U.S. 333,337 (1970), the

² The Occupy Movement, according to its website is, “a leaderless resistance movement with people of many colors, genders and political persuasions. The one thing we all have in common is that We Are The 99% that will no longer tolerate the greed and corruption of the 1%” (OccupyWallStreet, 2012).

Court describes that belief as, “their objection to participating in war in any form can not be said to come from a ‘still, small voice of conscience;’ rather, for them that voice was so loud and insistent that [they] preferred to go to jail rather than serve in the Armed Forces” (*Welsh v. United States, 1970*).

However, refusing to participate in war in any form does not only mean refusing to serve in the military; for many conscientious objectors, it means refusing to pay taxes that directly support the military industrial complex³. Many conscientious objectors, because of their deeply held religious and ethical beliefs, have heard a clarion call to refuse to pay taxes that support war. As one conscientious tax objector who lives in Eugene, Oregon told me over coffee, “I believe that it is immoral to pay someone to do an action that I believe is immoral. War is immoral, I refuse to participate in war and that means that I refuse to pay taxes that pay for war” (Conscientious tax objector #2, personal communication, 4 December 2011). A logical consequence of opposing war is refusing to pay a tax that directly supports it. Her stated beliefs put her in good company.⁴ A. J. Muste in *Muste vs. Commissioner, 35 T.C. 913, 916 (1961)* claimed that,

The same reason that would prevent [a conscientious objector] from firing a gun at an enemy and would prevent him from thinking he was exonerated from guilt if he handed the gun and ammunition to another soldier to use, would also keep him from paying the money to make the guns and ammunition. (*Muste v. Commissioner, 1961*)

³ President Dwight D. Eisenhower, in his Farewell Address on 17 January 1961, introduced the phrase, The Military Industrial Complex. Eisenhower gave a dire warning to the nation and described how the formidable union of defense contractors and the armed forces were a threat to democratic government. (National Public Radio, 2011)

⁴ According to this author.

Likewise in his critically important book for Christian conscientious tax objectors, *The Tax Dilemma*, Donald Kaufman (1978) goes further and states that it,

Seems artificial to distinguish between being a military warrior and paying government for the implements of war. Is it any wonder that people are agonized by the contradictions of paying for war while praying for peace? To insist on personally abstaining from war while paying for it with taxes suggests an ethical inconsistency. To finance and pay for an activity, is to participate in it. (p. 21)

Earlier, I stated that the First Amendment specifically protects the voice of the minority dissenter. How is it then that the minority voice faces punishment for dissenting when the dissent is in the form of refusal to pay taxes that support actions considered by the dissenter to be immoral? The answer rests with the Supreme Court and its continued deference to revenue statutes. Beginning with *Nicol vs. Ames* 173 U.S. 509, 515 (1898) the Court stated that

The power to tax is the one great power upon which the whole national fabric is based. It is as necessary to the existence and prosperity of a nation as is the air he breathes to the natural man. It is not only the power to destroy, but it is also the power to keep alive. (*Nicol v. Ames*, 1898)

The *Nicol* Court decision claimed that without the power to tax, a government would not survive. If the Court has routinely rejected⁵ First Amendment challenges to general taxes

⁵ See for example, *United States vs. Lee* (1982) which I will explain in further detail in Chapter 2, and *Hernandez vs. Commissioner*, (1988) in which the Court ruled that auditing courses at the Church of Scientology was not a qualified deduction and that this non-deductibility of payments did not violate the Establishment and/ or Free Exercise Clauses.

because of the presumed importance of the country's need for revenue, then is there a way to permit sincere conscientious objectors to pay their full tax obligation without violating deeply held religious or ethical beliefs?

1.3. Case Study

For conscientious tax objectors a major challenge exists. Under the current law, there is no legal way to honor her/ his conscience and legally comply with the tax law besides earning less than the federal taxable income level. To date, few scholars have sought to explain this circumstance in any systematic way. Most of the literature about the conflict is: relevant case law that emphasizes the constitutionality of the challenge (*United States v. Ramsey*, *Adams vs. Commissioner*, *Jenkins vs. Commissioner*, *Wall vs. United States*, and *United States vs. Peister*), discusses the normative implications of interpreting the religious freedom in the United States Constitution's First Amendment (Segers & Jelen, 1998), or is a compilation of essays in support of a peace tax trust fund idea (Franz, Bassett, Ratzlaff, & Godshall, 2009). Thus, the challenge is to craft a statute that will enable the conscientious tax objector to follow her/ his own conscience without compromising the viability of the current federal tax system. The Religious Freedom Peace Tax Fund Act (H.R. 1191, in the 112th Congress), a legislatively-created peace trust fund, is one such device. In this thesis, I examine the history of The Conscientious Objector Movement, The Conscientious Tax Objector Movement, and then unpack the pros and cons, as shared with me by individual conscientious tax objectors, to enacting the Religious Freedom Peace Tax Fund Act (see Appendix B for a copy of the bill and Chapter III for a synopsis of the history of the bill).

1.4. Barriers to Freedom of Conscience: An Organizing Theme

There are pros and cons, as seen by conscientious tax objectors, to the Religious Freedom Peace Tax Fund Act. In Chapter IV I discuss in detail reasons why certain conscientious tax objectors support and conversely some conscientious tax objectors oppose the Religious Freedom Peace Tax Fund Act. In general, the conscientious tax objectors who support the Religious Freedom Peace Tax Fund Act see the bill as one part of a greater peacebuilding movement. In contrast, many conscientious tax objectors who do not support the bill express concern about the purpose and details of the bill. Specifically, many question the compliant nature of its approach. These factions within the movement are in conflict. In my thesis, I will discuss how relevant case law, the history of the conscientious objector movement, the history of the conscientious tax objector movement, and the factions within the movement all contribute to the current conflict between freedom of conscience and required taxation. In short, my thesis examines how the current state of freedom of conscience and required taxation are in conflict.

CHAPTER II

SETTING THE STAGE

This chapter begins with a brief discussion of the ways that the United States Federal and State courts treat religion in the public domain. The Court's tendency to treat religion as a private, individual concern has numerous consequences for religious freedom, specifically, with regards to the conflict between required taxation and freedom of conscience. I will discuss both the positive and negative consequences of this tendency. Then, I will briefly discuss relevant case law. Finally, I will transition from relevant case law to relevant statutory authority. Congress' legislative authority regarding freedom of conscience is equally worth unpacking with regards to religious freedom.

2.1. Theoretical Religious Freedoms and The Supreme Court

I preface this section with the caveat that summarizing the Supreme Court's jurisprudence on religious freedom is extremely difficult. What you will read below is not an exhaustive review and summary of the full topic. Simply, it is an introduction to the topic through my own conflict resolution lens. A very broad outline of the Court's perceived religious bias follows.

The Court assumes that religion is a matter of private concern (Turpin, 2012). Thomas Jefferson (1813) wrote that religion is a relationship between "a man and his maker" (Jefferson, 1813). Katherine Turpin further suggests that Protestantism has dominated the public discourse since the beginning of the republic (Turpin, 2012). I suggest that the Court reads the First Amendment through a Protestant lens of private

concern. While the First Amendment protects the private beliefs of citizens, the Court has argued that it confers no rights upon the believer to act upon those beliefs (*Reynolds v. United States, 1879*)⁶. Stanley Hauerwas' (2012) theory of religion being relegated to the "sphere of private inwardness and individual motivation" as a crucial aspect of a modern liberal society is extremely useful because it sheds light on the difficult problem of if religion is private, as the Court has argued, then the state cannot recognize religious beliefs per se. Recognizing certain individual religious beliefs, the Court argues, would discriminate against individual citizens by either favoring or disfavoring religious beliefs in violation of the demands of the equal protection of law.

However, the United States is a religiously diverse pluralistic country. The Court recognizes this reality. In order to avoid favoring one group over another, the Court has maintained the traditional liberal view that Cavanaugh (1999) suggests is that the state must remain strictly secular. Only accepting secular arguments as valid the Court believes is fair and equitable. Further, by avoiding arguments specifically related to dogma and doctrine, the Court remains neutral regarding particular faith traditions.

By maintaining a strict separation between religion and state the Court often fails to recognize that this treatment is itself discriminatory, as in *Lemon v. Kurtzman, 1971*⁷.

⁶ George Reynolds, a member of the Church of Jesus Christ of Latter Day Saints, challenged the federal anti-bigamy statute. He was convicted in a Utah Territorial District Court and the Utah Territorial Supreme Court affirmed his conviction. The Court held that the statute can punish criminal activity without regard to religious belief. Furthermore, the First Amendment protected religious belief, but it did not protect religious practices that were judged to be criminal such as bigamy.

⁷ A Pennsylvania statute provided financial support for teacher salaries, textbooks, and instructional materials for secular subjects to non-public schools. A Rhode Island statute provided direct supplemental salary payments to teachers in non-public elementary schools. Each statute made aid available to "church-related educational institutions." Chief Justice Burger created the three-part test for laws dealing with religious establishment. To be constitutional, a statute must have "a secular legislative purpose," it must have principal effects which neither advance nor inhibit religion, and it must not foster "an excessive government entanglement with religion." The Court found that subsidizing parochial schools furthered a process of religious inculcation, and that the "continuing state surveillance" necessary to enforce the

Maintaining strict separation, the Court argues, is necessary to preserve religious freedom. However, the Court's historical understanding of religion preferences a particular religious bias, a Protestant private personal faith. Moreover, by maintaining as Turpin (2012) suggests the dominant culture's Protestant understanding of religion, the Court codifies discrimination against religious minorities. The Court has traditionally been composed of members of the dominant majority culture⁸, and, as such, the Justices may often not be aware of the assumptions inherent in their arguments. However, the religious minority cultures are aware of these assumptions and suffer discrimination due to the assumptions of the majority. Complaints and litigation by people of religious minority faiths reveal the effects of the majority's discriminatory assumptions. Specifically, the most significant complaints regarding taxation include a belief that the current jurisprudence is religiously biased. My research suggests that conscientious tax objectors feel that the Court allows religious discrimination against those people of faith whom are called to publicly witness their objection to war (Conscientious tax objector #1, personal communication, December 4, 2011).

By using the supra definition of religion by Thomas Jefferson, the court is partial. Defining religion as a matter of private concern may privilege the particular theology of the dominant culture.⁹ The Court's opinion in *US vs. Seeger*¹⁰ attempts to soften this

specific provisions of the laws would inevitably entangle the state in religious affairs. The Court also noted the presence of an unhealthy "divisive political potential" concerning legislation which appropriates support to religious schools. (*Lemon v. Kurtzman*, 1971)

⁸ The religious composition of all the Supreme Court Justices is: Catholic: 12, Unitarian: 10, Jewish: 7, No Church: 1, Episcopalian,: 35, Presbyterian: 19, Other Protestant: 28. (Totenberg, 2010)

⁹ The theology of traditional mainline Protestantism as well as liberal Judaism (Niebuhr, 1951)

¹⁰ See a short explanation of this court case later in this chapter.

concern. However, the Court continues to preference the doctrinal belief of the isolated person exercising a very private spiritual experience. The dominant culture's Protestant theology that salvation is attained by faith alone and without the need to act out or express the belief in public continues to guide the Court jurisprudence.

The definition of faith, in which spirituality is inherently private, preferences the dominant culture while discriminating against people of faith who define religion using a different perspective. Because they do not conform to the Court's model of religion, Justice Brennan argued in his dissent in *Goldman v. Wienberger* (1986),¹¹ the minority cultures experience discrimination. The individualistic, private religious view of the majority may not support or require participation in a public ritual, wearing a religious symbol in public, expressions of faith through social action, and I suggest conscientious tax objection. The Court, I suggest, reads the First Amendment to protect the religious understanding of the majority rather than to protect the rights of the minority.

In *Lemon vs. Kurtzman* (1971), the Court argued that in order to avoid discrimination against religious believers and non-believers alike, the State must operate according to strict secular standards. Moreover, the State must be able to justify its actions using secular reasoning. Furthermore, individuals must be able to offer secular reasons to advocate their religious beliefs. The Court presupposes that the secular is a religiously neutral concept. By adopting the secular justification standard, the Court believes that it is providing a neutral ground for political engagement. John Rawls

¹¹ In *Goldman v. Wienberger* (1986) a Jewish captain challenged the military dress code regulation that denied him the right to wear a yarmulke. The Court rejected the Captain's complaint on the basis that the dress code was religiously neutral. However, Justice Brennan, in his dissenting opinion, noted that the dress code favored the majority culture. The dress code accommodated the type of religious modifications/and/or wear that is common to the majority culture, Christian; it precludes or denies variations that would accommodate other religious (minority) traditions.

(1992) refers to secular reason as public reason. By arguing that secular/public reasoning is accessible to any reasonable person and does not rely on religious tradition or beliefs, the Court again preferences the majority culture. The Court's belief that secular/public reason is equally accessible to the religious and non-religious person alike is an example of the discriminatory assumptions of the majority culture. By demanding secular/public reason as the only allowed framework for arguments, the Court discriminates against religious minority cultures.

Rawls and other advocates of secular rational or public reason argue that the dialectic discussions between religious and non-religious can be translated into neutral language. By focusing on the idea that common principles can be found using secular language that will transcend the conflicts, Rawls overlooks Carter's (1993) suggestion that the process of translation favors worldviews that find secular arguments persuasive and thus inherently discriminate against religious people.

Is the Court justified in its privilege of secular reasoning? Many people believe that religion is inherently divisive. Michael McConnell (1999) suggests that,

In the current political climate, many of the most heated political controversies involve a clash between largely religious forces of cultural traditionalism and largely secular forces of cultural deconstruction. It would be difficult to say which side in these conflicts was more strident, more intolerant, or more absolutist. (p. 649)

However, will restricting religious participation end individuals bringing their passions to the political arena? My research suggests that the effort to secularize the public sphere has alienated and discriminated against numerous individuals. The efforts to avoid

passionate conflict by using “neutral” secular language have only served to define the differences. By refusing to deconstruct majority assumptions, the Court has institutionalized persecution of religious minority individuals and groups.

Reynolds v. United States (1879) and *Lemon v. Kurtzman* (1971) are two cases that illustrate the Court’s opinion that it is not possible to recognize individual religious beliefs without discriminating against other individual citizens. Further in *Lemon*, the Court created a three-part test that shows how the Court favors secular arguments in order to maintain neutrality.

2.2. Relevant Case Law Regarding Education and Religious Freedom

Wisconsin v. Yoder (1972) is one of the preeminent Supreme Court cases regarding protection of religious freedom. While *Yoder* initially answers the question of how, if at all, should the United States protect a minority religious group’s interest in regulating education standards for its minor members; the holding ultimately builds on the framework with which other religious freedom cases are argued (e.g. conscientious objectors and conscientious tax objectors).

Wisconsin vs. Yoder 406 U.S. 205 (1972)

The State of Wisconsin had a requirement that all children be enrolled in school until the age of sixteen. Three Amish families, from a newly established Amish community in New Glarus, Wisconsin, sued the state over this requirement. Amish families traditionally removed their children from school after completing the eighth grade in order to comply with the central tenet of their faith to “not conform any longer to

the patterns of this world.” (Romans 12:2). Furthermore, in 1950, a selected group of Amish leaders in Lancaster, Pennsylvania, made a declaration regarding the faith’s position on public school attendance. In it, the leaders stated that, “We believe that our children should be properly trained and educated for manhood and womanhood. We believe that they need to be trained in those elements of learning, which are given in the elementary schools. Specifically, we believe that our children should be trained to read, to write, and to cipher.” However, the leaders believed that additional schooling was harmful as it, "has a tendency to cultivate sentiment which may lead to a drifting away from the church" (Peters, 2003, p.28). The School Board officials, citing their belief that the State of Wisconsin had an obligation to ensure that all students were educated until the age of sixteen, feared that if any exception were made to this rule, it would open the floodgates to many requests for similar exemptions. This exception, in the opinion of the School Board official, places the state in the tenuous position of determining which religious requests were genuine and which were fraudulent. Without such exemption, many Amish parents, typically the fathers, were convicted of violating the law.

In the landmark case, *Wisconsin vs. Yoder* (1972), the Court held that the State was required to cooperate with Amish parents in providing alternatives to mandatory education requirements. In *Yoder*, the Court held that the “paramount responsibility” (*Wisconsin v. Yoder*, 1972) and interest of the State in universal education was not sufficient to justify the disregard of the Amish lifestyle and faith-based child-rearing practices. The opinion states, “the essence of all that has been said and written on the subject is that only those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion” (*Wisconsin v. Yoder*,

1972). The Court prohibited enforcement against the Amish of “the Wisconsin law [compelling] them, under threat of criminal sanction, to perform acts undeniably at odds with fundamental tenets of their religious beliefs” (*Wisconsin v. Yoder*, 1972).

2.3. Relevant Case Law Regarding Conscientious Objector Status and Religious Freedom

Since 1917, conscription laws have incorporated an exemption from serving in combat for all persons who claim the status of conscientious objector based upon their religious training and belief (Albernathy, 1989). The nature of this statutory authority has allowed the Court to refrain from determining whether or not the Constitution requires conscription and or the accommodation of religious conscience objection. Ultimately, the Court has had to interpret the exemption as it is statutorily written and determine whether the statute violates the religion clauses of the Constitution by favoring or disfavoring a particular religion.

The following decisions illustrate that that in order to avoid the appearance of favoring a particular religious faith, the Court defines conscientious objection based upon a religious belief, as the statutory exemption is written. Then the Court transitions and moves beyond the normative understanding of the definition of religion. These decisions suggest that the Court acknowledges that one’s religious affiliation, defined in numerous ways, can serve to mediate between one’s civic obligation to serve in the military and conscience.

United States v. Seeger, 380 U.S. 163 (1965)

This case, heard by the Supreme Court, connected three cases involving conviction for failure to accept induction into the United States Armed Forces. Three individuals, Arno Sascha Jakobson, Forest Britt Peter, and Daniel Andrew Seeger, all sought conscientious objector status without belonging to an orthodox religious sect. While it was Seeger's case that gave its name to the multi-case decision, all three individuals were denied conscientious objector status because their religious beliefs did not necessarily include a connection to a Supreme Being. Seeger, in his application for conscientious objector status, cited Plato, Aristotle, and Spinoza for his ethical belief system. He stated that he was, "without belief in God, except in the remotest sense" (*United States v. Seeger, 1965*). The Court of Appeals reversed his initial conviction on the grounds that, the Supreme being requirement of the section "distinguished between internally derived and externally compelled beliefs and was therefore an impermissible classification under the due process clause of the Fifth Amendment" (*United States v. Seeger, 1965*).

Justice Thomas Clark, writing the opinion for the Court said, "we believe this construction embraces the ever-broadening understanding of the modern religious community" (*United States v. Seeger, 1965*). Furthermore, the unanimous Court created precedent that all individuals with a general theistic belief system, who qualified under other conscientious objector status tests, be granted exemption from military service. Thus, believers of all variances of monotheism are afforded the same rights as believing members of the three Abrahamic faith traditions.

Welsh v. United States, 398 U.S. 333 (1970)

Elliott Ashton Welsh II, after begin classified I-A and available for military service, filed an application for conscientious objector status. On the application, Welsh stated that he did not believe in a Supreme Being and that his pacifism had nothing to do with a religious belief system. After the appeal board denied his application, Welsh refused to appear for induction. Subsequently he was convicted of violating 50 U.S.C. App. S 462(a) and on 1 June 1966 was sentenced to prison for three years.

In *Welsh v. United States* (1970), the Court held that an individual who deeply and sincerely believes that all war is wrong, but only holds these beliefs based on ethics and morality that are not theistically based, is entitled to conscientious objector status. Furthermore, the Court stated that if Welsh was tested using the new test of status written in *U.S. v Seeger* he would have been granted conscientious objector status:

“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.” (*Welsh v. United States, 1970*)

Clay vs. United States, 403 U.S. 698 (1971)

Cassius Clay, also known as Muhammad Ali, hereinafter referred to as Clay/Ali, applied for conscientious objector status during the Vietnam War. His application was initially turned down by his local draft board and he subsequently appealed the decision. He was tentatively granted I-A status, which meant he was eligible for unrestricted

military service. His file was referred to the Department of Justice and the F.B.I. began an inquiry into his request. After the F.B.I. completed a thorough investigation, a hearing officer concluded that Clay/Ali's claim for conscientious objector status should be accepted. However, the Department of Justice advised the Appeal Board to disregard the hearing officer's recommendation and deny his application. After this denial, Clay/ Ali again refused to follow the traditional induction proceedings and he was subsequently prosecuted and convicted for this refusal.

In *Clay vs. United States* (1971), the Court reversed a lower court decision that Clay/Ali was rightly convicted of willfully refusing to submit to induction in the armed forces. The Supreme Court held that Clay/Ali's denial of conscientious objector claim was invalid and erroneous. The *Clay/Ali* Court cited the decision in *U.S. vs. Seeger*, that Clay/Ali's claim was, "unquestionably within the 'religious training and belief' clause of the exemption provision" (*Clay v. United States*, 1971). The Court went on to state that Clay/Ali's "beliefs are founded on tenets of the Muslim religion as he understands them. They are surely no less religiously based than those of the three registrants before this Court in *Seeger*" (*Clay v. United States*, 1971). The Court stated that the long established rule of law regarding conscientious objector status had settled precedent and thus clearly required them to reverse the lower court judgment.

2.4. Relevant Case Law Regarding Taxes and Religious Freedom

Complaints about the following decisions relating to public fiscal responsibilities state that in order to avoid the appearance of favoring a particular religious faith, the Court determines the validity of conscientious objection to taxes in regards to the

common good. The Court determines that in the absence of a statutory exemption, the normative definition of religion stands and does not serve to protect against the compelling interest of the state. The following decisions illustrate that the Court acknowledges that one's religious affiliation, defined in numerous ways, cannot serve to mediate between one's civic obligation to pay taxes and one's freedom of conscience.

United States v. Lee, 455 U.S. 252, 260 (1982)

In *United States v. Lee*, (1982), Lee was a farmer and carpenter, and a member of the Old Order Amish, who believe that there is a religiously-based obligation to provide for fellow members the kind of assistance contemplated by the Social Security system. During certain years, when he employed other Amish to work on his farm and in his carpentry shop, Lee failed to withhold social security taxes from his employees or to pay the employer's share of such taxes because he believed that payment of the taxes and receipt of social security benefits would violate his Amish faith. After the Internal Revenue Service assessed him for the unpaid taxes, Lee paid a certain amount and then sued in Federal District Court for a refund, claiming that imposition of the taxes violated his First Amendment free exercise of religious rights and those of his employees.

In *Lee* the Court held that the broad public interest in maintaining a sound tax system is of such importance that religious beliefs in conflict with the payment of taxes provide no basis for refusing to pay. The ruling holds that, "the tax system could not function if denominations were allowed to challenge the tax system because tax payments were spent in a manner that violates their religious belief" (*United States v. Lee*, 1982).

The Court's rejection of a First Amendment challenge to social security laws is consistently applied to income tax challenges.

United States v. Indianapolis Baptist Temple, 224 F.3d 627, 629-31 (7th Cir. 2000),
cert. denied, 531 U.S. 1112 (2001)

Indianapolis Baptist Temple (I.B.T.) was founded in 1950 initially as a not-for-profit corporation. In 1983, I.B.T. became an unincorporated religious society. In 1986, I.B.T. became a New Testament Church following the exclusive sovereignty of Jesus Christ, and claimed that all members were required to disassociate from secular government authority. Acting upon their interpretations of the teachings of Jesus Christ, I.B.T. stopped filing federal employment tax returns and paying federal employment taxes. Subsequently, the I.R.S. contacted I.B.T. for failure to file and pay. This began a multi-year conversation regarding I.B.T.'s refusal to pay and the I.R.S. assessing taxes, interest and penalties totaling \$3,498,355.62 along with a demand-to-pay letter.

In *United States v. Indianapolis Baptist Temple* (2001), the Court rejected the defendant's Free Exercise¹² challenge to the federal employment tax, asserting that those laws were not restricted to the defendant or other religion-related employers generally, and there was no indication that they were enacted for the purpose of burdening religious practices. Furthermore, citing *United States v. Lee* (1982), regarding maintaining a sound and efficient tax system as a compelling government interest, the Court states that, "we find this authority persuasive and see no reason to reach a different conclusion" (*U.S. v. I.B.T.*, 2001). The Court disagreed with I.B.T.'s claim that claim that as a New Testament

¹² The Free Exercise Clause refers to the 1st Amendment, which states that, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof" (United States Constitution, Amendment I).

Church, one not officially state-recognized, the case precedents could be disputed on factual grounds because they are based on recognized churches and thus are not applicable. The Court held that, “none of these cases, expressly, or implicitly, rely on the fact that the entities involved were state- recognized, nor does such a distinction have any logical connection to the relevant legal standards” (*U.S. v I.B.T.*, 2001)

United States v. Ramsey, 992 F.2d 831, 833 (8th Cir. 1993)

George William Ramsey entered an I.R.S. taxpayer assistance office on 15 April 1992 and began a Tax Day nonviolent direct action protest against the Government’s use of tax money for military expenditures. Ramsey, displaying a protest sign, attempted to distribute propaganda paraphernalia and explain his beliefs to taxpayer assistance employees and individuals seeking assistance at the office. Ramsey was asked to cease his protest and leave the office. When he refused, officers arrested him. Ramsey was charged and convicted of failure to comply with the lawful direction of a Federal Protective Officer, conduct which created a nuisance, and distributing handbills without a permit. He was also ordered, as a requirement of probation, to pay his federal income taxes.

In *United States v. Ramsey* (1993), the Court mentioned that Ramsey stated in district court that he had not paid his income taxes for the past twenty years and that he did not intend to ever pay his income taxes. The Court rejected Ramsey’s argument that filing federal income tax returns and paying federal income taxes violates his pacifist religious beliefs. The Court, citing *Lee*, said that Ramsey, “has no First Amendment right to avoid federal income taxes on religious grounds” (*United States v. Ramsey*, 1993).

Adams v. Commissioner, 170 F.3d 173, 175-82 (3d Cir. 1999)

From 1985 to 1989, Priscilla Adams, a devout Quaker, declared herself exempt from taxation on her W-4 forms. These declarations resulted in no federal income tax being withheld from her pay for those years. In 1989, the I.R.S. sent a letter to her employer demanding that they withhold taxes from her salary as if she had filed her W-4 as married with one withholding allowance. Adams' employer, The Philadelphia Yearly Meeting of the Religious Society of Friends, supported her in her nonviolent direct action of resistance, and determined that her resistance was a result of a "leading" from God. Adams' did not contest the right of the Government to tax and she stated that she would pay her income taxes if the money was directed to non-military spending.

In *Adams v. Commissioner* (1999), the Court affirmed adjudged tax deficiencies and penalties for failure to file tax returns and pay tax, holding that the Religious Freedom Restoration Act did not require that the I.R.S. accommodate Adam's religious beliefs that payment of taxes to fund the military is against the will of God, and that her beliefs would not constitute reasonable cause for purposes of the penalties. Referencing *Lee*'s support of a federal tax system free from numerous exceptions, the Court held that,

The nature of compelling interest involved - as characterized by the Supreme Court in *Lee* - converts the least restrictive means inquiry into a rhetorical question that has been answered by the analysis in *Lee*. The least restrictive means of furthering a compelling interest in the collection of taxes . . . is in fact, to implement that system in a uniform, mandatory way, with Congress determining in the first instance if exemptions are built into the legislative scheme. (*Adams v. Commissioner*, 1999)

Jenkins v. Commissioner, 483 F.3d 90, 92 (2d Cir. 2007)

Daniel Jenkins, a religious conscientious tax objector, stated that the collection of tax revenues for war offended his religious beliefs and thus violated the Free Exercise Clause. He further stated that the Religious Freedom Restoration Act required that he and other like-minded tax payers be afforded the right to avoid payment and finally that the Ninth Amendment¹³ provided him the right to refuse payment of income taxes if they were meant for military spending.

In *Jenkins v. Commissioner* (2007), the petition for Certiorari¹⁴ was denied thus upholding the imposition of a \$5,000 frivolous return penalty against Jenkins. The Court held that the collection of tax revenues for expenditures that offended the religious beliefs of individual taxpayers did not violate the Free Exercise Clause of the First Amendment, the Religious Freedom Restoration Act of 1993, or the Ninth Amendment. Again, like previous courts, the Court made no claim against the sincerity of his religious beliefs. However, the Court, citing previous decisions like *Lee*, stated that his sincere religious beliefs, “afford no basis for resisting payment of his taxes where, as here, the broad public interest in maintaining a sound tax system is not meaningfully disputed” (*Jenkins v. Commissioner, 2007*).

¹³ Amendment IX of the United States Constitution states that, “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people” (United States Constitution, Amendment IX).

¹⁴ Certiorari is a writ “issued by the United States Supreme Court when it determines that it will exercise its discretionary authority to review a decision by a federal appellate court or state court on a question of federal law” (Johns & Perschbacher, 2007, p. 254).

Wall v. U.S., 756 F.2d 52 (1985)

In 1982, David Wall filed a tax return with a \$6,060.00 war tax deduction. He attached a statement explaining his rationale for the deduction. He claimed that his religious convictions could not allow to him to, “contribute to the war machine of this county” (*Wall v. U. S.*, 1985) and that he redirected the withheld money to charities. Subsequently, the I.R.S. assessed Wall a \$500 penalty. Wall paid fifteen percent of the penalty and filed a refund claim. After the I.R.S. denied his refund claim, Wall filed suit for a full refund. A district court granted summary judgment to the I.R.S. and Wall appealed the decision.

In *Wall vs. U.S.*, (1985), the Court upheld the imposition of a \$500 frivolous return penalty against Wall for taking a war deduction on his federal income tax return based on his religious convictions. The Court cited *United States vs. Lee* in stating that, “the necessities of revenue collection through a sound tax system raise governmental interests sufficiently compelling to outweigh the free exercise rights of those who find the tax objectionable on bona fide religious grounds” (*Wall vs. U.S.*, 1985). Furthermore the Court, citing *Welch vs. United States*, stated that individuals who are assessed the \$500 fine are not penalized, “for expressing their moral or religious beliefs, but are penalized because they file returns containing substantially incorrect self- assessment based on a clearly unallowable credit” (*Wall vs. U.S.*, 1985).

United States v. Peister, 631 F.2d 658 (1980)

Steven Peister formed the Life Science Church of Friendly Hills in 1976. While forming the church, Peister took a vow of poverty. Furthermore, he donated all of his

possessions to the church because members of the Order of Almighty God, with which the Life Science Church of Friendly Hills was associated, were required to disavow all of their possessions, however they were still required to hold assigned outside jobs to fund the church. While working at the assigned job, Peister attempted to stop tax withholding from his wages. After further conversations with his employer and the I.R.S., Peister submitted a W-4 claiming 99 exemptions. Subsequently, a jury found Peister guilty of violating I.R.C. s 7205, 26 U.S.C. s 7205, willfully supplying false or fraudulent information on an exemption certificate form. Peister appealed his conviction.

In *U.S. v. Peister* (1980), the court rejected Peister's argument that he was exempt from income tax based on his vow of poverty after he became the minister of a church he formed and found his First Amendment right to freedom of religion was not violated. The Court held that Peister's rights were not violated because he lacked sincerity of belief regarding the church. Further, it was reported that Peister set up the church for the sole purpose of avoiding tax to make that decision. Citing *United States vs. Seeger*, the Court argued that, without a sincere belief, there could be no reliance on good faith.

2.5. Relevant Statutory Authority

After reviewing numerous relevant case laws, I am not surprised that conscientious tax objectors have never succeeded in arguing a First Amendment claim against paying taxes. The constitutional claims are not successful, yet, in comparison, legislative claims by conscientious objectors (COs) are. Similar to conscientious tax objection, relief from conscription is not mandated by the Constitution; it was established

by legislative action. Next, I will unpack the legislative history of Conscientious Objection and the more recent Religious Freedom Restoration Act of 1993.

2.5.1. Conscientious Objection

As the preceding relevant case law suggests, the Free Exercise Clause of the Constitution does not require religious accommodation. However, while it is not required, Congress is free to create laws of accommodation. It is important to unpack the history of conscientious objection in the colonies and later in the United States in order to understand the development of Congressional accommodations of conscientious objectors.

As I have stated before, the roots of nonviolent direct action and pacifism predate the Revolutionary War. Many early colonists immigrated to the “New World” in order to escape religious persecution. Pacifism was one belief for which many were persecuted. Early colonies, such as Pennsylvania and Rhode Island, established the legal right to religious freedom. However, while the right to the free exercise of religion was established in the Constitution, many pacifists continued to experience persecution for their religious beliefs. (Franz, Bassett, Ratzlaff, & Godshall, 2009)

Prior to the founding of the United States, the earliest recorded case of religious persecution, on a member of the Religious Society of Friends, happened in 1658 in Maryland. Richard Keene refused to be trained as a soldier and was subsequently fined and beaten by the local sheriff (Brock, 1968). However, Brown (1986) reminds us that in the late 17th century, Rhode Island exempted conscientious objectors from serving in militias created to protect against attacks from Dutch and Native Americans. The

Continental Congress, in 1775, enacted the first national conscientious objection law by stating that:

As there are some people, who, from religious principles, cannot bear arms in any case, this congress intends no violence to their consciences, but earnestly recommend it to them to contribute liberally in this time of universal calamity, to the relief of their distressed brethren in the several colonies, and do all other services to their oppressed country, which they can consistently with their religious principles. (American Archives, n.d.)

However, while numerous proposals were offered during the debates on the Bill of Rights to exempt religious conscientious objectors from the militia, none were passed.

Moving past the early years of the United States towards the Civil War, the role of conscientious objector takes a peculiar twist. As many religious conscientious objectors were also morally opposed to slavery, their solidarity with the North's cause precipitated many to financially support the North's war effort, as Brock states, even through the payment of special war taxes (Brock, 1968). Furthermore, he goes on to state that some pacifists even served in the northern military. However, some pacifists continued their objection to all wars and Congress enacted the Federal Militia act on 17 July 1862, which basically left primary responsibility for conscription to the states rather than the federal government. However, Congress made a provision for the President to order conscription, which President Lincoln did that same year. In 1864, the Conscription Act of 3 March 1863 was amended to provide for religious conscientious objectors with an alternative to military service, such as serving in hospitals or paying a fee of \$300, which would specifically benefit wounded and sick soldiers (United States Enrollment Act,

1863). As Brock suggests, for some objectors, these alternatives were not sufficient as they believed that these acts would only further the war cause, rather than deter war.

By using the wording in the Selective Draft Act of 1917, more than 64,000 draft-age men claimed conscientious objector status during World War I (NWTRCC Conference, personal communication, 2008). The Act stated that, “a member of any well-recognized religious sect or organization . . . whose existing creed or principles forbid its members to participate in war in any form,” (United States Selective Service Act, 1917) were not compelled to military service. However, these men were not completely released from service because the Act further stated that, “no person so exempted shall be exempted from service in any capacity that the President shall declare to be noncombatant” (United States Selective Service Act, 1917). While the law provided relief from combat service, it did not provide relief from harsh treatment and fierce opposition. Many conscientious objectors found themselves under great pressure to serve in some type of service within the military, even after receiving conscientious objector status. (M. Morton, personal communication, March 7, 2012). Their conscientious objector status freed them from performing combat service; but not from the control of the military. Many officers hated conscientious objectors and one went so far as to claim that they were, “enemies of the Republic. . . fakers, and active agents of the enemy” (Moskos & Chambers, 1993, p. 33).

Perhaps due to the poor treatment afforded conscientious objectors during World War I (WW I), conscientious objectors during World War II (WW II) were afforded much more pleasant treatment. The new governmental policy during WW II extended the opportunity of conscientious objector status to all religious objectors. This statute

exempted from combatant service a draftee, “who, by reason of religious training and belief is conscientiously opposed to participation in war in any form” (Selective Service Act of 1940). Previously, this exemption had only been extended to members of the historic peace churches. Furthermore, the new statute provided the opportunity for conscientious objectors to serve in civilian alternative service rather than the noncombatant military service required during WW I. Of the more than 5,000 conscientious objectors imprisoned during WW II, most were denied status because they failed to meet the statutory definition of a religious conscientious objector (Franz, Bassett, Ratzlaff, & Godshall, 2009). For example, members of Jehovah’s Witnesses refused to apply for conscientious objector status because they wanted complete exemption from service so that they would be free to continue to preach and witness. (Conscientious tax objector #1, personal communication, January 4, 2012).

According to John Whiteclay Chambers II, who calculated the ratio of men classified as conscientious objectors per 100 actual inductees in the military for each of the wars in which America participated during the twentieth century, the ratio in WW I was 0.14 per 100 actual inductees, in WW II it was 0.15 per 100 actual inductees and during the Vietnam War the ratio greatly increased. In 1967 the ratio was 8.1 per 100 actual inductees, in 1971 the ratio was 42.62 per 100 actual inductees and in 1972 the amazing ratio was 130.72 per 100 actual inductee (Moskos & Chambers, 1993, p. 42). One probable explanation for the dramatic increase between 1967 and 1971/72 is the two important Supreme Court decisions (*Welsh v. United States* and *United States v. Seeger*) that drastically expanded the definition of conscientious objector to allow for secular conscientious objectors as long as their beliefs were morally and ethically based.

In 1967, Congress enacted the Military Selective Service Act of 1967. This act ensured that conscientious objectors would not be compelled to violate their beliefs by participating in war. The act states that the exemption is provided to any person who, by reason of their religious beliefs and trainings, “is conscientiously opposed to participation in war in any form¹⁵” (United States Military Selective Service Act, 1967).

2.5.2. Religious Freedom Restoration Act of 1993

As the preceding relevant case law suggests, the Free Exercise Clause of the Constitution does not require religious accommodation. However, while it is not required, Congress is free to provide an accommodation as long as it does not violate the Establishment Clause¹⁶. Many such accommodations exist within Federal Tax Law. For example, a local property tax exemption for religious institutions was upheld as a reasonable and permissible accommodation of religion in *Walz v. Tax Commissioner of New York*, (1970). Furthermore, numerous accommodations of religion exist in the Federal tax code.¹⁷ Moreover, 26 U.S.C. §3127, enacted by Congress in 1988, provides for the accommodation requested in *Lee*. Congress enacted an exemption for cases in which both employer and their employee(s) are members of religious faiths that are opposed to participation in programs supported by the Social Security Act.

In *Employment Division Department of Human Resources of Oregon vs. Smith*, 494 U.S. 872 (1990), the Court greatly reduced the scope of protections and

¹⁵ I added the italics because of the exciting development of statutory language that provides for war in any form. In Chapter IV I will return to these new possibilities.

¹⁶ The Establishment Clause refers to the 1st Amendment, which states that, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof” (United States Constitution, Amendment I).

¹⁷ See 26 U.S.C. § 107, §§ 1402 (e), and 1402 (g).

accommodations afforded religious dissenters under the Free Exercise clause. Writing for the majority, Justice Scalia stated that allowing exceptions to every state law or regulation affecting religion “would open the prospect of constitutionally required exemptions from civic obligations of almost every conceivable kind” (*Oregon v. Smith*, 1990). Scalia cited as examples compulsory military service, payment of taxes, vaccination requirements, and child-neglect laws. Historians and legal scholars suggest that the Court’s decision indirectly overruled *Wisconsin vs. Yoder*. However, even as the compelling interest test was deleted, the Court maintained that the government cannot, “impose special disabilities on the basis of religious views” (*Oregon v. Smith*, 1990).

Following the ruling in *Smith*, many religious persons of all denominations united in protest and Congress enacted the Religious Freedom Restoration Act of 1993 (RFRA), restoring the compelling interest test of *Yoder*. The words of RFRA itself clearly indicate Congress’ intent to reverse *Smith*, “government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability.” While an exception is provided for a “compelling government interest,” it is only allowed by the “least restrictive means of furthering that compelling governmental interest” (Religious Freedom Restoration Act, 1993).

Looking at congressional records of debates on the floor, it is clear that neither the House nor the Senate intended to affect the issue of abortion or overrule cases like *Lee* and *Hernandez*. Moreover, the Act does not address the challenges faced by religious conscientious tax objectors.

However, in 1997, in *City of Boerne v. Flores* 521 U.S. 507, 534 (1997), the Supreme Court held that RFRA, under the Due Process Clause of the Fourteenth

Amendment, exceeded congressional powers as the law applied to state laws.

Furthermore, the Court held that RFRA violated the balance of power between the federal and state governments.

Subsequent courts,¹⁸ ruling on the application of RFRA to federal law, cite *Lee* and rely on its ruling that federal law does not require that income tax laws accommodate religious beliefs, specifically, conscientious objection to war. These decisions have returned the compelling interest test of *Yoder* and have determined that the government's compelling interest in a broad tax system is of greater importance than the individual's conscience.

¹⁸ See *Adams v. Commissioner* 170 F. 3d 173 (3d Circ. 1999) and *Browne v. United States*, 22F. Supp 2d 309, 310 (D. Vt. 1998) *aff'd*, 176 F. 3d 25 (2d Circ. 1999)

CHAPTER III

CASE STUDY BACKGROUND

Chapter II examined ways the United States of America treats religion in the public domain. Specifically: the court's tendency to treat religion as a private concern, relevant case law, and relevant statutory authority. This chapter looks at the intersection of those three by transitioning from the legal explanations against governmental provisions for conscientious tax objection to: tangible examples and methods of conscientious tax objection, examples of possible repercussions of conscientious tax objection, and current ongoing court cases of conscientious tax objectors.

3.1. Methods of Conscientious Tax Objection

Justice Oliver Wendell Holmes is often quoted as saying that he liked to pay taxes because he felt he was buying civilization (Internal Revenue Service, n.d.). Conscientious tax objectors may wonder how he would react to the civilization that is being purchased by today's federal taxes. In the era of the modern military industrial complex, conscientious tax objectors use many methods to resist payment of federal taxes. During research for this thesis, I discovered the pluralistic nature of the forms of tax resistance, even as some conscientious tax objectors' reasons may align. The conscientious tax objectors, whom I interviewed or read about, all practice unique forms of resistance. I have sorted their methods into the following seven categories: file and refuse to pay, do not file and do not pay, 1040 form resistance, W-4 resistance, file and make payable not to the I.R.S., phone tax resistance, and the owe nothing plan. This list

is by no means exhaustive, but it can serve as a representative synopsis of the most common methods of conscientious tax objection.

3.1.1. File and Refuse to Pay

This method of resistance is the most straightforward and simplest form of conscientious tax objection. The conscientious tax objector completes her/his annual federal tax filing as if s/he were not planning to engage in a nonviolent direct action. Once the form is complete, s/he prepares a letter addressed to the I.R.S. stating her/his rationale for the refusal to pay federal income taxes. In the letter, which may also be mailed to all of her/his elected officials or submitted as a letter to the editor of local/ regional/ national newspapers, and is often mailed to family and friends, the conscientious tax objector often cites federal laws and/or relevant case law which s/he believes support her/ his moral conviction to not engage in war in any form.

In order to withhold the greatest dollar amount from the federal government, the conscientious tax objector must also engage in other forms of nonviolent direct action resistance. Prior to filling out the 1040 form, the conscientious tax objector must make certain changes to her/his W4s to exempt her/himself from federal tax withholding, or transition from a W4 job to self-employment. In the absence of these initial decisions, the amount withheld will not be the total tax liability for any given year.

3.1.2. Do Not File

While the file and refuse-to-pay method involves a certain public component of nonviolent direct action, the Do Not File can be and often is a private form of resistance. This method often, but not necessarily, involves, preparing the federal tax forms as is the

case with the file and refuse to pay method. However, this method does not involve filing the form with the I.R.S. The same initial decisions regarding withholding and employment are applicable to this method of resistance. The non-filing conscientious objector also chooses whether to publicize her/ his method of resistance. Failing to file a federal tax form is against Federal Tax Code 26 U.S.C. § 6651 (a) (1) and (2) which states that, “if a taxpayer fails to file, a penalty will be added unless the taxpayer can demonstrate (1) lack of willful neglect, and (2) reasonable cause.” According to the Court in *Adams v. C.I.R* (1999), “Willful neglect can be read as ‘meaning a conscious, intentional failure or reckless indifference. . . [and] whether the elements that constitute ‘reasonable cause’ are present in ‘a given case is a question of fact, but what elements must be present to constitute ‘reasonable cause’ is a question of law” (*Adams v. C.I.R.*, 1999).

3.1.3. 1040 Form Resistance

Similar to the File and Refuse to Pay method, 1040 Form Resistance involves the tax payer preparing her/ his 1040 tax form and refusing to pay her/his full tax obligation. The conscientious objector chooses a symbolic figure to withhold. Such resisted figures can be, \$10.40, \$50.00, or perhaps 48%, (the percentage of all Federal income tax dollars the Federal Government allocates to past and present Military spending) of the conscientious objectors annual tax obligation. Many conscientious objectors who utilize this method of resistance also choose to participate in the public demonstration of their nonviolent direction action by engaging in the same letter writing campaign as the File and Refuse to Pay method. Numerous campaigns have developed around the 1040 resistance method, such as the National War Tax Coordinating Committee’s War Tax

Boycott, Shane Claiborne's 1040 for Peace Campaign, and Schools Not Bombs Resistance Campaign.¹⁹

3.1.4. W-4 Resistance

A method of resistance that involves an additional violation of the law is W-4 Resistance. Using this method, a conscientious objector purposefully adds exemptions to her/his W-4 form that s/he is not legally allowed. For example, a conscientious objector may fill out the form and mark 10 on the number of exemptions line when s/he may be single with no children. In that situation, the objector is legally allowed 1 exemption. The rationale behind the additional exemptions in W-4 Resistance varies by individual. Some conscientious tax objectors state a personal ethical belief in financial and moral responsibility towards individual civilians of countries in which the United States has recently engaged in military actions. Other conscientious tax objectors state a personal and ethical belief that s/he is financially responsible for individual citizens of the United States who are marginalized and denied access to federal funds due the financial decision of Congress to prioritize the military industrial complex over domestic humanitarian concerns. Other conscientious objectors may simply increase their exemptions for the sole purpose of reducing their withholding to zero in order to completely participate in the File and Refuse to Pay method stated above. Whatever the personal reason for engaging in the W-4 resistance method, the individual conscientious tax objector engages in an illegal action once s/he claims non permissible or non-existent dependents on her/his filed 1040 form.

¹⁹ See Chapter IV for examples of contemporary 1040 campaigns.

3.1.5. File and Address Check to a Different Department

Another symbolic method of nonviolent direct action regarding taxes is to file the 1040 form correctly but send payment for the required tax obligation made payable to a particular department within the Federal, State, and/or local government that the individual conscientious tax objector believes to be less or not associated with the military industrial complex. For example, the conscientious tax objector may make the check payable to her/his city public works department rather than the I.R.S. The check is then mailed to the I.R.S. Although it is not made payable to the I.R.S, past actions have resulted in the I.R.S. endorsing and depositing the check into the general fund. However, other actions have resulted in the I.R.S. directing the check to the correct addressee, yet not applying the payment to the individual conscientious objector's account²⁰ (Conscientious tax objector # 24, personal communication, April 7, 2012). If the I.R.S. fails to credit the individual's account for the payment sent, the individual conscientious tax objector may still acquire fines, interests, and penalties.

3.1.6. Phone Tax Resistance

A low risk entry into tax resistance is refusing the federal excise tax on telephone service. This tax has a long association with funding wartime activity. The history of the modern phone tax is convoluted and filled with repeals and reinstatements. A tax on toll calls was imposed in 1898 during the Spanish-American War. This tax was meant to help fund the wartime effort. This first tax was repealed in 1902. In 1914, the War Tax Revenue Act enacted tax on long distance calls. This was repealed in 1916, but reinstated in 1917 along with other war taxes. Then, in 1924, it was repealed and reinstated in

²⁰ For specific examples of such events please see Chapter IV.

1932. The first tax on local telephone service, a 25% tax on long distance calls and a 15% tax on local service, was instituted during World War II. Congress retained this tax until the Korean War. However, in 1954, the tax was reduced to 10% on all telephone services. In 1965, Congress approved a reduction of the phone tax to 3% and planned to phase it out entirely in 1969. However, in 1966, the Johnson Administration needed money for the escalating war in Vietnam. Congress passed a special tax bill that included a reinstatement of the 10% phone tax. In 1968, Congress extended the tax for two more years. In late 1970, another two-year extension was approved with the proviso that it be reduced by 1% each year thereafter and repealed entirely on 1 January 1982. However, in January 1981, Congress extended the tax by another year at 2%. The tax was due to expire on 1 January 1983, but instead increased from 1% to 3%. The 3% telephone tax was scheduled to expire at the end of 1987, however, Congress voted to extend the tax until 1990. In 1990, instead of letting the tax expire, the 101st Congress extended it permanently at 3%. However, sponsors of the Act for Better Child Care²¹ used the phone tax extension as a source of new funding for their programs as a requirement under the Gramm-Rudman rules to reduce the federal deficit. The permanent phone tax was then attached to this bill and passed by Congress. Nevertheless, the phone tax revenues go into the general fund as they always have and are not specifically earmarked for child-care programs. (Hang Up On War, 2012)

From April 1966 through 2001, the total revenues from the federal excise tax on telephone service amounted to \$89 billion according to the I.R.S. In 2001, the telephone tax raised almost \$6 billion. The federal excise tax on long distance telephone service

²¹ In October 1990, Congress passed legislation authorizing two new major federal programs to subsidize child-care for low and moderate-income families and to improve the quality of care. The provisions were included in the Omnibus Budget Reconciliation Act of 1990.

was abolished on 31 July 2006, after the government lost five appellate decisions on cases brought by big corporations. Because the government and the I.R.S. had continued to collect the tax after a number of these cases were lost, they were forced to offer refunds for the three previous years on 2006 tax forms. Currently, the federal excise tax no longer applies to any long distance, mixed use phone service (like cell phones), flat rate phone service, or internet phone service. It is still applied on local-only telephone service. (Hang Up On War, 2012)

The *Hang Up on War Campaign* began with a suggestion in or around 1966 by Doris Sargent to her family and friends. (Conscientious tax objector #1, personal communication, March 3, 2012) The well-known Catholic Worker activist, Karl Meyer, began talking about the idea in the Chicago area and soon the idea spread to New York and the National War Resisters League. The League printed cards with the slogan “Hang up on War” and encouraged conscientious tax objectors to include the cards with their bill payment each month. To see a copy of one such card, see Appendix C. By 1972, telephone tax resistance had grown to nearly a half million conscientious objectors. While the campaign began when the excise tax was more widely applied, the campaign continues to remain active with many participants. (Hang Up On War, 2012)

3.1.7. The Owe Nothing Plan

“In conforming to my simple lifestyle, I do not own a car. I also do not like to use more fossil fuel than I already do. I also don't think the I.R.S. will confiscate my bike. I also think riding a bike is healthier than driving in a car, ” writes peace activist Cindy Sheehan on her personal blog (Sheehan, 2012). Sheehan, like many other conscientious objectors, chooses to live below the taxable line as a method of nonviolent

direct action against the military industrial complex. According to the 2012 I.R.S. Standard Deductions and Exemptions, the Standard deduction is \$5,950.00 and the standard personal exemption is \$3,800. Thus, for a single person with no dependents, the total taxable income that s/he can earn without owning a federal tax obligation is \$9,750. Certain other allowable deductions could increase the amount of income an individual may earn without incurring a tax obligation. Basically, a religious conscientious tax objector can reduce his/her income to the poverty line in order to avoid a tax obligation. This is the only legally allowable form of nonviolent direction action of tax resistance afforded religious conscientious objectors. For example, a married conscientious objector filing jointly with two children can have a total income of \$27,1000.00 ($\$15,200 (\$3,800 \times 4) + \$11,900.$) without a federal tax obligation. See table 1 for the standard deduction and personal exemptions.

Table 1: Standard deduction and personal exemptions

	Standard Deduction	Personal Exemption
Single	\$5,950.00	\$3,800.00
Married, filing jointly	\$11,9000.00	\$3,800.00

As a result of my research, I believe that earning less than the taxable income level will remain the only legal form of conscientious tax resistance. My research suggests that if the current trend continues the Supreme Court may never exempt religious conscientious objectors from their tax obligation as a matter of constitutional interpretation. My reasoning is based on the ruling in *Hamilton v. Regents of the*

University of California (1934). This case involves a group of students enrolled in the University of California at Berkeley. The students refused to participate in the school's Reserve Officer Training Corps program, a Regent's requirement for all male undergraduate students of a certain academic class standing. The students refused based on their membership in a church, which had previously renounced military action as contrary to God's will. The students sought school exemption and were denied. After their exemption was denied, the students again refused to participate and they were suspended from school. As a result of the suspension, the students' parents sued the University Regents to reinstate the students. The Court ruled that the students chose to attend the University of California at Berkeley. They were not compelled to attend the University. The students made an informed decision to attend the University and by making that decision were obligated to follow the existing rules and regulations of The Regents, including but not limited to the required participation in war practice.

The same rationale can be used with regards to conscientious tax objection. The only current way to legally withhold taxes associated with war is to live below the taxable line. Wages are a choice. Those citizens who choose to earn a wage that puts them above the line of taxation are making the choice. The federal government can argue that by choosing to earn a wage above the taxable line, the religious conscientious tax objector is choosing to participate in the existing Internal Revenue Code. Moreover, the right to refuse compelled participation in war through payment of taxes is not a matter of religious freedom. That claim is moot. In fact, the only topic of discussion regarding the conscientious tax objector is whether s/he will choose to earn a taxable wage. An individual's religious freedom is not unlawfully imposed upon because the individual is

free to decide to earn a taxable wage. Following this line of reasoning, the only constitutionally permitted avenue available to an individual not wanting to act against her/his conscience by paying for war is to live below the taxable income line, unless Congress provides for an exemption through a statute like the Religious Freedom Peace Tax Fund Act.

3.1.8. Redirection

Most conscientious tax objectors, whom I interviewed, not only withhold their federal tax money but also redirect that money to institutions and organizations that support life-affirming measures. Moreover, the individual conscientious tax objectors often redirect their withheld taxes to organizations in their own communities that are in need of resources due in large measure to the priorities of the federal government. Many conscientious tax objectors also send a portion of their withheld taxes to “alternative funds”. These funds were specifically created as a way to collect small amounts of resisted funds so that the collected total can provide for a greater impact to the recipients of the redirected funds. These funds also provide some security against seizure, as the conscientious tax objector’s principle deposit is never redirected, only the interest on the principal. This level of security is mutually beneficial. The conscientious tax objector has some financial protection, as the principle remains available to pay I.R.S. penalties, if desired, and the local community organizations receive grants and often interest-free loans²². Some funds have been created with the sole purpose of holding money in escrow pending the passage of the Religious Freedom Peace Tax Fund.

²² Further details for why these specific funds are important can be found in Chapter IV.

3.2. Ramifications of Conscientious Tax Objection

One should not engage in tax resistance without fully considering the ramifications of that decision. Tax resistance is not an easy nonviolent direction action to sustain. It is not without potential severe penalties. Perhaps one of the most severe is that, to the majority of taxpayers, a conscientious tax objector appears foolish, impractical, or unpatriotic and is often labeled and judged as such by her/ his family, co-workers, and even friends.²³ Furthermore, legally, the conscientious tax objector breaks the law and faces criminal charges that may result in a fine of up to \$10,000 (possibly even greater) and/or a prison term of up to a year. In practice, the Internal Revenue Service, through correspondence and levies, tries to collect refused taxes without engendering publicity through court actions (perhaps to avoid opportunities for the activists to educate the public on conscientious tax objection). These penalties notwithstanding, once the individual decides for her/ himself that payment for war is as reprehensible as fighting in war, the hazards involved in defying the government presumably weigh less than the hazards invited by defying one's conscience.

Nonviolent direction action for peace often entails exposure to unpredictable risks. Conscientious tax objection is no exception. In the following few pages, I describe the most common risks of engaging in this form of nonviolent direction action and give historical examples of the risks. These data are included so that the risks taken and the repercussions experienced by conscientious tax objectors can be evaluated as one aspect of the resistance. Later in Chapter IV, I discuss the repercussions suffered by individual conscientious tax objectors from their acts of resistance.

²³ See Chapter IV for examples.

3.2.1. Penalties and Fines

The conscientious tax objector who engages in conscientious tax objection by filing her/his tax forms and refusing to pay, can expect to receive some type of tax due notice from the I.R.S. These notices may include penalties of up to 25% of the unpaid tax obligation plus compound interest. For the conscientious tax objector who chooses to not file, should the I.R.S. catch up with her/him, s/he should expect to be told to file for the non-filed years (however the I.R.S. may not request all non-filed years)

(Conscientious tax objector #1, personal communication, December 4, 2011).

Furthermore, the non-filer should expect to receive fines for failing to file. If the I.R.S. suspects that a conscientious tax objector has falsely filled out her/his W-4 form, the employer of the conscientious tax objector may be forced, by the I.R.S., to adjust the payroll exemptions to the minimum allowance to allow for the maximum withholding available in an attempt to recoup previous lost tax obligations. Conscientious tax objectors who file a return with an illegal deduction (i.e., war tax deduction), a political message written directly on the return, with no lines filled out, and even with a political message stapled to the form, can expect to receive a frivolous fine penalty as large as \$5,000.00.

The following is part of a frivolous fine warning letter that I viewed during one of my interviews. The conscientious tax objector showed me this letter and permitted me to publish it on the condition that s/he would remain anonymous.

I.R.S.
Ogden, Utah

“Dear *Taxpayer*²⁴:

This letter serves to inform you of the potential consequences of the position you have taken and to offer you an opportunity to correct your submission within 30 days from the date of this letter. Internal Revenue Code Section 6702 imposes a \$5,000 penalty for the filing of a frivolous tax return or purported tax return. We are proposing a \$5,000 penalty per return based on your filing of a frivolous tax return(s) or purported tax return(s).”

(Conscientious tax objectors #5 & #6, personal communication, November 4 2011)

One story of a frivolous filing penalty of \$5,000.00 comes from acquaintances of mine in Eugene, Oregon. A married couple (names withheld) received individual penalty charges of \$5,000.00 for a total fine of \$10,000.00 as a consequence of their first act of conscientious tax objection. They joined the 2008 war tax boycott and withheld a symbolic \$50 and redirected the withheld taxes to the nonprofit Direct Aid Initiative, which works with Iraqi refugees in Jordan. In a letter regarding their frivolous tax return penalty they wrote,

We dutifully enclosed a letter of explanation as to our actions. At most we expected to receive a chastising letter from the I.R.S., a small penalty, and a demand to pay the tardy amount. Imagine our surprise when four months later we received a letter from the I.R.S., threatening each of us with a \$5,000 penalty

²⁴ Taxpayer used to fulfill anonymous request.

for filing a frivolous tax return. The letter went on to state that any further action on our part would cause an additional \$5,000 fine for each of us, without further notice or reason. After shaking off the initial shock and consulting with fellow WTR colleagues, we learned that this I.R.S. tactic was new to all of them. We decided to pay the late amount and did so, within the time period specified. Thinking the matter had come to a logical conclusion, we felt able to shift our gears and to think of how next to act as war tax resisters. Not so! Four months later, we received dual letters in the mail from the I.R.S., this time informing us that we each had been issued a penalty of \$5,000, payable in 13 days. This from our beneficent government! Disbelief both at the gross inefficient workings (we had paid!) and malignance (\$5,000 fine for a \$50.00 withholding????!!) of the I.R.S. prevailed in our hearts. We were stunned. Thought of retaining legal counsel began. On the good advice of fellow resisters, we contacted our local Congressman's office, explained the whole story, and they went into action with lightning speed. Through their auspices, we faxed copies of all of our I.R.S. correspondence and paperwork to the I.R.S. Legislative Advocates, both in our home state and in Washington, DC. In a matter of two weeks, we had a preliminary abatement, and in another three weeks we received formal letters from the I.R.S. CREDITING us with the amount of \$10,000 on our case! There was no apology (had we really expected them to do so?) nor was there ANY explanation. Our relief was palpable. Finally, we received another letter from the I.R.S., billing us a more rational \$54.00, late fee for the money that was withheld. That we will pay! Hopefully with the payment of this fee our inaugural action

with NWTRCC will be culminated. Oh boy! What shall we do for resistance excitement next year?! (More Than a Paycheck, 2009)

3.2.2. Wage Garnishments and Bank Account Seizures/ Levies

Once the I.R.S. decides to send a conscientious tax objector a “final demand” notice, s/he can expect, if the demand payment is not met, to have her/ his bank accounts seized and/or her/ his wages garnished. If the conscientious tax objector holds a W-4 job, it is most likely that the I.R.S. will first act on a wage garnishment before a bank seizure. In the State of Oregon, for example, the law states that the employer is obligated to garnish up to the maximum, which is generally 25% of the employee’s disposable earnings, as long as the employee is left with at least \$218 per week after the garnishment (HB 2682 2011). The employer is held legally responsible for garnishing the employee’s wages until such time as the garnishment notice is rescinded. If the conscientious tax objector does not hold a W-4 job (i.e., is self-employed), the I.R.S. has the right to seize assets through a levy. For example, if the conscientious tax objector is owed payments in her/his accounts receivable, the I.R.S. may levy such payments and demand the payor pay directly to the I.R.S. If the I.R.S. decides that the previous described methods are not effective, then it has the authority to seize bank accounts associated with the Social Security Number of the conscientious tax objector. If the conscientious tax objector maintains a bank account, the I.R.S. may seize the entire deposit, up to the total amount of premium, interest, and penalties owed. (NWTRCC Conference, personal communication, 2008)

3.2.3. Property Seizures

Although more rare than penalties and fines, wage garnishment, bank account seizures and levies, the I.R.S. has seized property from conscientious tax objectors for unpaid taxes (see Appendix D). The I.R.S. may take control of any property in order to auction it to recoup owed tax obligations. The I.R.S. may also place a lien on a property. Past seized properties include: vehicles, houses, and even bicycles. During the Vietnam War, many unpaid telephone taxes resulted in property seizure. According to the National War Tax Resistance Coordinating Committee (N.W.R.T.C.C.), the seizures (and threats to seize) appear to be obvious attempts at intimidation and to force the conscientious tax objector into cooperation by revealing sources of other assets rather than attempts to actually collecting money. (NWTRCC Conference, personal communication, 2008)

One notable property seizure is that of Betsy Corner and Randy Kehler. Betsy Corner and Randy Kehler, married long-time conscientious tax objectors, engaged in a multi-year conversation with the I.R.S. regarding their refusal to pay their federal tax obligations. Both Corner and Kehler were self- employed and, according to Kehler, “The I.R.S. had attached [their] bank account, garnisheed [their] wages, and placed a lien on [their] property—with little monetary success” (Kehler, 1994).

Perhaps because of their employment status, the I.R.S. seized their home in Colrain, Massachusetts in 1989, to recover \$27,000.00 in unpaid federal taxes, penalties, and interest. After the I.R.S. seized their home, the couple and their young daughter refused to move out and began to occupy the home. U.S. Marshals and I.R.S. Agents

arrested Corner and Kehler on 3 December 1991.²⁵ After the home was seized, community supporters and other conscientious tax objectors organized. Affinity groups²⁶ from all over the world gathered to provide rotating one-week occupation stints. On 12 February 1992, the home was sold at auction to Danny Franklin and Terry Charnesky for \$5,400. Franklin and Charnesky, not supporters of Corner and Kehler, won the auction with the highest bid. The home, while still occupied, was auctioned to recoup the unpaid taxes. However, the land was not auctioned because it belonged to the Valley Community Land Trust. After the auction, the affinity groups refused to leave the home. On 15 April 1992, supporters of Franklin and Charnesky (in opposition to Corner and Kehler) moved in and began to occupy the home while the affinity group on rotation that week was protesting at another location. With Franklin and Charnesky, recognized by the government as the legal owners of the home, now occupying the building, the Corner and Kehler affinity groups began occupying the land outside the home. This switch began a more than twenty-month land occupation nonviolent direct action. After numerous affinity group members' arrests, an out-of-court settlement was reached between the Land Trust and Franklin and Charnesky. Franklin and Charnesky deeded the house back to the Land Trust for an undisclosed sum of money and moved out. Betsy Corner and Randy Kehler chose to not return to this home but rather to reside in another home on the Land Trust. (Leppzer, Elinoff, Sheen, & Turning Tide Productions, 1997) (Kehler, 1994)

²⁵ See later in this chapter for a more detailed description of his arrest and jail sentence.

²⁶ An Affinity group is usually a small group of activists (between 3-20) who work together on a direct action. Typically, affinity groups are nonhierarchical and utilize consensus decision-making. Often, affinity groups are made up of trusted friends and are flexible temporary organizations. Wally and Juanita Nelson (see later in this chapter) were members of one such affinity group.

3.2.4. Jail Sentences

Since World War II, very few conscientious tax objectors have been tried in court because of their conscientious tax objection²⁷. Only two conscientious tax objectors, Katsuki James Otsuka and J. Tony Serra, have been jailed for failure to pay taxes since World War II. According to N.W.T.R.C.C., most conscientious tax objectors have charges brought against them such as falsifying 1040 forms, failure to file, and contempt of court for refusing to produce records. (NWTRCC Conference, personal communication, 2008) Two such conscientious tax objectors, Juanita Nelson and Randy Kehler, were jailed for contempt of court.

In 1949 Katsuki James Otsuka, an Earlham College student and United States citizen of Japanese descent, received a 90-day jail sentence and a \$100 fine after refusing to pay \$4.50 in federal income tax. (Toledo Blade, 1950). According to the 21 January 1950 Toledo Blade, the amount resisted equaled 29 percent of his total federal income tax obligation. (Toledo Blade, 1950). Otsuka served an additional month in jail because he refused to pay the fine. Otsuka, a Quaker, had previously served time in a federal penitentiary for another case related to his conscience. During World War II, Otsuka applied for conscientious objector status and received a 1A-O classification, subjecting him to noncombatant service in the armed forces of the United States. However, Otsuka felt that his religious beliefs prevented him from performing any kind of military service. Furthermore, he believed that he ought to have been more appropriately classified 4E, a conscientious objector subject to civilian work of national importance. Subsequently, he refused to report for induction and surrendered himself at the office of the New York

²⁷ According to NWTRCC's website, 54 conscientious tax objectors, since 1942, have been taken to court. (NWTRCC, 2012)

District Attorney. Otsuka pleaded guilty to violating the Selective Service and Training Act of 1940. He was sentenced to three years in a federal penitentiary. He served his time and was released. (*Otsuka v. Hite*, 1966).²⁸

J. Tony Serra, a renowned criminal defense lawyer,²⁹, who has represented Huey Newton of the Black Panther Party, members of the Symbionese Liberation Army, Judy Bari of Earth First!, and, perhaps most famously, Choi Soo Lee who was involved in a San Francisco Chinatown murder, was sentenced to ten months in federal penitentiary and a \$100,000 fine (the amount the federal government claimed he owed for past resisted federal tax obligations) for his 2005 misdemeanor conviction of “failure to pay” for tax years 1998 and 1999. (Hedemann, 2007) (Frankl, 2010). This conviction was Lee’s third conviction as a conscientious tax objector. Previously, Serra was convicted in 1976 for failing to file a tax return. Serra refused to file as protest to the Vietnam War. For this conviction, Serra served four months in Lompoc's Federal Correctional Institute. In 1986, Serra was again convicted of failure to file and was sentenced to one year in prison. However, the sentence was suspended in favor of a five-year probation. According to a 2005 Los Angeles Times article, Serra filed but refused to pay his federal tax obligations from his 1986 conviction through his 2005 conviction (Romney, 2005). In July 2006, Serra again found himself sentenced to ten months in Lompoc Prison for failure to pay what Judge Spero, the presiding judge, called his “fair share” (Frankl, 2010, p. 236). However, before sentencing Serra, Spero praised Serra for “his dedication to the cause of justice” (Frankl, 2010, p. 236). To date, Serra has served time in federal prison,

²⁸ For more on Otsuka please see Chapter IV.

²⁹ His autobiography asserts that he is the greatest counter-culture attorney.

served multiple probations, lost his license to practice law for 30 days and been convicted of numerous misdemeanors for his conscientious tax resistance (Frankl, 2010, p. 236).

Juanita Nelson and her husband Wally³⁰ are well-respected leaders in The Conscientious Tax Objector Movement. The Nelsons began resisting and later refusing to pay their federal taxes in 1948 (see Figure1). Juanita Nelson wrote about one of her arrests in her work, *A Matter of Freedom*. Nelson, writing about the reason for her arrest, stated, “in March I had been served with a summons to appear at the Internal Revenue office in Philadelphia with my records. Our procedure all along had been not to cooperate with the collection of information, and we felt we would probably not cooperate with an arrest” (Nelson, 1964, p. 18-19). During her court appearance for failing to cooperate, the commissioner told her that he was empowered to imprison her for up to one year, but that he desired otherwise. He offered her more time to choose to decide to comply with the law. Nelson assumed that officers would again arrest her. However, later she learned that “charges had been dropped, since it could not be proven that I owed anything. (I was not, as a matter of fact, arrested for not paying the tax, but for contempt arising from refusal to show records.) Still, in my Christmas mail there was a bill from the Internal Revenue Service for \$950.01” (Nelson, 1964, p. 32).

Figure 1. Wally and Juanita Nelson (NWTRCC, 2012)



³⁰ Wallace Floyd Nelson (27 March 1909 – 23 May 2002) passed away at the age of 93 after more than fifty years of conscientious tax objection. Nelson spent three and a half years in prison as a conscientious objector during World War II.

Betsy Corner and Randy Kehler, previously mentioned in this chapter, are conscientious tax objectors. After the I.R.S. foreclosed on their home in order to recover back taxes, Corner and Kehler returned and occupied it. During the protracted proceedings, the I.R.S. attempted twice to auction the Corner/ Kehler home. The first auction resulted in no offers and the government became the owner by default. During this period but before the second auction, both Corner and Kehler were arrested for trespassing on federal property. After the second auction, Corner and Kehler returned to occupy the home and in 1991 were again arrested for the same charge. In return for being released from jail, Corner agreed to not return to the house but Kehler refused. Kehler refused to cooperate and served six months in jail for contempt of court. (Leppzer et al., 1997)(“Colrain Journal; Peace Advocates Turn Tax Resistance Into a Ritual,” 1992)

3.3. Current Legal Cases of Interest

As I write this thesis, there are two ongoing court cases of interest. Elizabeth Boardman, a Quaker, is suing the I.R.S. Boardman argues that bearing witness and suffering levies and court orders is a long-standing practice of her religion. She is an example of a conscientious tax objector who may be willing to compromise and support the Religious Freedom Peace Tax Fund Act. Cindy Sheehan, a tax refuser and mother of Casey Sheehan, a member of the U.S. Armed Forces killed in Iraq, was summoned to court to answer questions regarding her conscientious tax objection. Sheehan says that she will refuse to pay her income taxes until taxes are no longer used to fund unending wars. She is an example of a conscientious tax objector who may be unwilling to

compromise and most likely would not support the Religious Freedom Peace Tax Fund Act.

3.3.1. Elizabeth Boardman v. Commissioner of Internal Revenue

The following is a brief explanation of Elizabeth Boardman's claim in her *Complaint and Claim for Injunctive Relief* filed on 13 March 2012 against the Commissioner of Internal Revenue. Plaintiff Elizabeth Boardman is a lifelong Quaker and peace activist. She believes that her faith practice compels her to refuse the voluntary payment of the percentage of her federal income taxes that is directed towards war. In tax years 2007 and 2008, she filed her full and complete federal income tax return. She attached a correspondence to her federal income tax return form explaining that her conscience and religious beliefs prevented her from paying her full amount due. The correspondence included notice of deposit in a financial institution equaling the amount of her federal income taxes withheld. Furthermore, the correspondence declared that she was willing to deliver the withheld funds for peaceful uses.

While Boardman believes that compelled payment of taxes used to fund war is a violation of her First Amendment right, she does not engage in the refusal of collection of assessed taxes and/or penalties. She is not suggesting that as a Quaker she has the right to avoid paying any taxes and/or penalties/ interest that are imposed by Congress. Rather, she requests that the Court enjoin actions by the Commissioner that violate the Constitution and order that the Commissioner act in compliance with the Religious Freedom Restoration Act. She believes that the I. R. S. can accommodate bona fide religious conscientious tax objectors without undue negative impact upon tax collection.

Boardman's position is that paying for war is against her religion and her conscience. She will not voluntarily accede to and join in a system that makes war. She understands that the I.R.S. will collect the amounts due by means such as levies and seizure of assets. She argues that refusing to make tax payments for war, bearing witness on behalf of the Peace Testimony³¹ to the I.R.S. and to the world, and suffering levies and court orders is a long-standing practice of her religion.

Boardman argues that in tax years 2007 and 2008, the I.R.S. needlessly burdened her religious practice by determining her tax resistance as "frivolity." In 2007, Boardman wrote to the I.R.S. stating,

I am not a tax evader, I am not a libertarian, and I am not opposed to taxation. I paid half of my tax bill for 2007, and would pay it all, if all went to the constructive social programs our country desperately needs. I am a long-time Quaker pacifist who has made a considered decision to commit civil disobedience by refusing voluntarily to pay the half of my income taxes that are earmarked for support of military activities, including the killing of human beings. . . In my effort to hold true to my deepest religious beliefs in pursuing this course, I have received much misinformation and (perhaps deliberate) misdirection from the Tax Advocacy Service and the I.R.S., on the phone and in writing. . . As a result, before I could file an appropriate appeal within the I.R.S. system, the balance due (with penalty

³¹Pacifism has been of central importance to Quakerism since the religion was founded. Accused of participating in a religious uprising in 1660, Quaker founders, led by George Fox, issued a formal declaration that became the seed witness of the Quaker Peace Testimony: "All bloody principles and practices, we, as to our own particulars, do utterly deny, with all outward wars and strife and fightings with outward weapons, for any end or under any pretense whatsoever. And this is our testimony to the whole world. ... That the spirit of Christ, by which we are guided, is not changeable, so as once to command us from a thing as evil and again to move unto it; and we do certainly know, and so testify to the world, that the spirit of Christ, which leads us into all Truth, will never move us to fight and war against any man with outward weapons, neither for the kingdom of Christ nor for the kingdoms of this world" (Pacific Yearly Meeting, 2012)

and interest) on my 2007 tax bill, a total of \$1159.49, was levied by the I.R.S. from the Northern California Community Loan Fund. . . Although this levy has taken place, I have not received any “notice of deficiency” from the I.R.S. in relation to my 2007 taxes. . . My concerns cannot be addressed by the Collection Due Process or the Collections Appeal Program. My claim is not frivolous (Boardman, 2012).

In connection with a frivolous penalty letter, Boardman enclosed a letter in which she stated:

I believe that it is an inalienable human right of conscience I am a long-time Quaker pacifist who has made a considered decision to commit civil disobedience by refusing voluntarily to pay the half of my income taxes that are earmarked for support of military activities, including the killing of human beings. . . In my effort to hold true to my deepest religious beliefs in pursuing this course, I have received much misinformation and (perhaps deliberate) misdirection from the Tax Advocacy Service and the I.R.S., on the phone and in writing. As a result, before I could file an appropriate appeal within the I.R.S. system, the balance due (with penalty and interest) on my 2007 tax bill, a total of \$1159.49, was levied by the I.R.S. from the Northern California Community Loan Fund. . . Although this levy has taken place, I have not received any “notice of deficiency” from the I.R.S. in relation to my 2007 taxes. My concerns cannot be addressed by the Collection Due Process or the Collections Appeal Program. My claim is not frivolous. (Boardman, 2012)

In connection with tax year 2008 tax return, Boardman enclosed a letter in which she stated:

I believe that it is an inalienable human right of conscience to refuse any form of participation in war, be it by military service in person or by payment of war-supporting taxes. . . The freedom of individual conscience is protected by international treaties and covenants that are signed and ratified by the United States of America. My human right to freedom of conscience is violated when I am coerced to pay taxes that are used in support of military activity. . . I understand that under current federal law, my refusal voluntarily to pay for war can be characterized as an act of civil disobedience. However, I believe that taking this action, holding back and putting in escrow a portion of my income tax obligation, is entirely proper under international human rights law. (Boardman, 2012)

Later Boardman wrote to the I.R.S. stating that she refused to voluntarily contribute to the support of the Department of Defense and that she desired to obtain a Tax Court determination. After she was denied her request for a Tax Court, she wrote to the I.R.S., “Just to keep the record clear, I wish to remind you now that I have objected on the phone (3/14/10) and by letter (3/16/10) to any hearing which will result in denial of my right to appeal to a tax court” (Boardman, 2012).

In her *Complaint and Claim for Injunctive Relief*, Boardman claims that she did not receive notices that the I.R.S. was obligated to provide as part of its procedures.

Furthermore, she claims that the I.R.S. improperly levied her Social Security benefits while disputes were pending. After numerous conflicting conversations with different I.R.S. agents, which included threats of imminent seizures to suggestions that she had

given up her right to seek judicial review in Tax Court, Boardman acquiesced and paid the amount demanded by the I.R.S. on account of her tax obligations for the 2008 tax year. However, Boardman hopes to recover her costs and disbursements related to this case in court.

Boardman alleges in her court documents that the I.R.S. is selecting practitioners of religious conscientious tax objection for threats, punishment, and discriminatory bureaucratic action. She believes that these discriminatory actions are intentional, and, deliberate towards members of religious minorities. Therefore, she asserts that the I.R.S. is in violation of the Free Exercise clause of the First Amendment. Furthermore under R.F.R.A., the I.R.S., she alleges, should be required to establish alternative procedures for handling disputes, claims, collection, and litigation adverse to taxpayers who provide full and honest disclosures of relevant information, and who state bona fide reasons of religion or conscience for failure to pay or refusals to pay their full tax liability.

Boardman alleges that such alternative procedures need not involve more expense or delay in connection with tax collection from religious conscientious tax objectors than is incurred under the present system. As it stands today, Boardman believes that she has no adequate remedy at law. Thus, she is requesting that the Court issue a permanent injunction ordering the I.R.S. to comply with the Free Exercise clause of the First Amendment and with the Religious Freedom Restoration Act of 1993 as amended in 1998. as requesting that the I.R.S. comply with the following principles:

- a. The Commissioner shall put into operation procedures for processing disputes, claims, collections and litigation adverse to taxpayers who refuse to pay taxes because of conscience or religion that are respectful, efficient, transparent and

minimally burdensome and that lead to Tax Court determinations upon taxpayer request;

b. No costs or punishment shall be inflicted, threatened or sought against conscientious or religious war tax resisters in excess of costs or punishment strictly required by Congressional enactment. (Boardman, 2012)

As already noted, Boardman's ongoing case is worth examining because she is a religious conscientious tax objector who does not engage in tax refusal. Boardman is an example of a conscientious tax objector who may support the Religious Freedom Peace Tax fund Act. Further, should the Act become law, she may choose to register as a conscientious tax objector.

3.3.2. Cindy Sheehan Case

Cindy Sheehan is one leader of the contemporary peace movement. Sheehan, who is often called Peace Mom by her fellow pacifists, is the mother of Casey Sheehan. Casey was an American soldier sent to Iraq in April 2004. Only five days after he arrived in Sadr City, Iraq, Casey and seven of his fellow soldiers were killed on 4 April 2004. Casey died at the age of 24 and posthumously was awarded the Bronze Star Medal and the Purple Heart. After her son's death, Sheehan met with President George H.W. Bush. After the meeting, which Sheehan is quoted as saying, "was the worst of her life" (Sheehan, 2012) she created the organization Gold Star Families for Peace³².

Subsequently, Sheehan began a 26-day nonviolent direct action witness project directly across from President George W. Bush's ranch in Crawford, Texas. This action brought

³² Gold Star Families are families in which any member of the immediate family member died in a combat zone while a member of any branch of the armed forces. (Gold Star Families For Peace, 2012)

widespread publicity and attention to her cause. Continuing her activism, Sheehan first became a conscientious tax objector and then a vocal tax refuser. Since 2004, Sheehan has refused all taxes, penalties, and interest assessed to her by the I.R.S. On 19 April 2012, Sheehan attended a scheduled court hearing regarding her refusal to pay taxes and her refusal to supply the I.R.S. with requested information. In a pre-court statement, Sheehan read the following words:

On April 04, 2004, my oldest son, Casey Sheehan, was killed in Iraq and my heart and life were shattered. We always disagreed with George Bush and opposed the US's entries into Afghanistan and then Iraq, but on May 1, 2005, the Downing Street Minutes were discovered about a meeting held at Number 10 Downing Street on July 23, 2002 between Tony Blair and a member of the Foreign Service who had met in Washington DC with then National Security Advisor Condoleezza Rice. . . The minutes explicitly stated that there was no intelligence indicating an immediate need to invade Iraq, but the invasion, at that point was, "a foregone conclusion." In today's fast food, instant message culture, all of this may seem like ancient history, but to the one-million plus people who have been slaughtered for lies, imperial conquest and this government's lust for and devotion to war, and all the ones that their unnecessary death left behind, the pain will always be fresh. . . The US government took something invaluable precious and priceless from me and the murder has not abated with a new administration and not one person who is responsible for the mayhem has been prosecuted. . . I will refuse to pay my income taxes until the time, and I hope it's soon, that our money is used to fully fund a national health care system; free and fully funded

education; housing for all; and a more equitable distribution of wealth—and not used for these unending wars. . . Some people ask me if I pay my state taxes, and the answer is: not while my state sends billions of dollars to the federal government for its war OF terror while slashing education and other essential social services. Although my protest is not against, nor is my beef with the I.R.S., I know for sure that the I.R.S. is used to prosecute political enemies of the state and as I am one of the most outspoken critics of US foreign policy, I believe this is happening to me as this nation is now embarking on further oppressive measures against dissent and I will not cooperate with my own persecution.

(Sheehan, 2012)

Following the meeting with the I.R.S., Cindy Sheehan sent a Press Release on behalf of her sister and herself regarding the I.R.S. procedures against her. In the press release, Sheehan stated,

We recently have received your “Notice of Levy,” and “SUMMONS.”

Let us be clear why we are not paying your bill. . . . For almost five decades of our lives, we sisters were taxpaying, law-abiding citizens. Sure, we got the occasional traffic or parking tickets, but we dutifully paid them or went to traffic school. I.R.S. Agent, can you imagine in your Revenuer’s heart the agony we felt when we realized that we had funded the murder of our own dear Casey? As our awareness grew, so did our disgust with our complicity in this system as the body count for totally innocent civilians rose. We now feel that for at least 30 years of taxpaying perfidy, we funded the murders and torture of millions! The only way we could live with ourselves was to stop being accessories to our government’s

war crimes and crimes against humanity. . . To honor Casey's needless sacrifice and to protect others, we will not pay these bills. . . . our membership in the human race demands that we withhold money from such a homicidal, nay genocidal cabal as the US government. Scores of people in this nation have taken the principled stand that we take and we feel that our moral compasses trump your "laws." We could have taken the strategy of only paying a portion of our taxes like some do, but we feel we have no control over where our money is spent. If Citizens United (*Citizens United v. The Federal Elections Commission*) can claim that money is Free Speech and it can spend freely on its political causes, then we feel we have the same right to withhold our money in an act of moral courage . . . We will never again co-operate with the USA in its crimes against peace. . . . We strongly reiterate: we won't help fund the terrorism of this government abroad and the economic terrorism of this government here at home. (Sheehan, 2012)

As already noted Cindy Sheehan's publicity and ongoing conversations with the I.R.S. regarding her tax refusal is worth following. Sheehan, a tax refuser, is an example of a conscientious tax objector who may not support the Religious Freedom Peace Tax Fund Act, and should The Act become law, may not register for the classification.

3.4. Religious Freedom Peace Tax Fund Act

One possible transformation of the conflict between freedom of conscience and required taxation may be passing The Religious Freedom Peace Tax Fund Act. The Act is a proposed bill that would create a trust fund for registered conscientious tax objectors.

By looking at the history of The Peace Tax Fund Movement and describing how the proposed bill may work, the following section unpacks how The Act may help relieve the conflict. Through this discussion we begin to discover some of the reasons that many conscientious objectors do not support the bill.

3.4.1. History of the Peace Tax Fund Movement

As this is a thesis for the Conflict and Dispute Resolution Program at the University of Oregon, I was excited to discover that Representative Edith Green of Oregon was the first to introduce into Congress the idea of a congressionally mandated peace fund for conscientious tax objectors. Representative Green's bill was called the United Nations Investments in Peace Act of 1958. She introduced the bill on 1 May 1958 and Senator Hubert Humphrey of Minnesota introduced the identical bill on 24 July 1958 on the Senate floor. Section 4 of the bill established a credit, not to exceed two percent, for amounts contributed to the newly established United Nations Investments in Peace Fund in the United Nations. In the bill, the purpose of the national defense is said to,

Avoid war rather than to fight; . . .and it is in the national interest to encourage [others] . . .to contribute in time, energy, interest, and money toward the achievement of lasting peace through the removal of the basic causes of dissension among nations. (N.C.P.T.F., 2012)

The Civilian Income Tax Act of 1961, drafted by the Peace Committee of Pacific Yearly Meeting of Friends, meant to establish a device for all conscientious objectors to have their income taxes paid to UNICEF. This bill was not adopted; yet another group of Friends met in Michigan during the Vietnam War to work on the creation of the

legislation that would become the Religious Freedom Peace Tax Fund. Two couples in the Ann Arbor, Michigan, Friends Meeting - Johann and Frances Eliot, and Robert and Margaret Blood – decided that they could no longer allow their federal income tax dollars to be used to fund the Vietnam War. They were conflicted about how to remain true to their values and conscience. The two couples joined the ever-growing number of conscientious tax objectors in the United States. However, simply refusing to pay a portion of their federal income tax did not resolve their personal conflicts. They began work on creating a law that would recognize the right of conscientious objection to military taxation. The two couples persuaded Thomas Towe, a law student at the University of Michigan Law School and a member of the Ann Arbor Friends’ Meeting, to prepare a brief that could one day be submitted to the United States Congress in support of this legislation.

In June of 1970 the Lake Erie Yearly Meeting (L.E.Y.M.)³³ approved a minute³⁴ that asked Friends to consider the implication of paying for war through federal taxes. The approved minute was shared at all monthly meetings in L.E.Y.M. David Bassett, a physician and conscientious objector, was a member of the Ann Arbor Friends’ meeting. After hearing the minute, he and his wife, Miyoko Inoye Bassett, decided that their conscience no longer allowed them to pay their full tax obligation. They decided to

³³ The structure of the Friends Meeting, according to The Lake Erie Yearly Meeting is as follows, “The Yearly Meeting comprises the members of its constituent Monthly Meetings who come together annually to explore and pursue their common purposes. The work of the Yearly Meeting is conducted by its committees and corporately during the annual gathering, which is also referred to as the Yearly Meeting session. While the Yearly Meeting’s officers and committees broadly parallel those of a Monthly Meeting, additional officers and committees are responsible for the conduct of the annual gathering.” (PCM, 2012)

³⁴ According to the Bethesda Friends Meeting, a minute is a “. . . statement of belief that an individual or group would like to record for others to see, both now and in the future about a certain topic or person. This is recorded in the minutes of our business meetings and is held as a permanent record of our Meeting's convictions. It will become part of the history of this Meeting. It can be used to stimulate thought and discussion among other Meetings and/or to inform various decision-makers beyond our Meeting of our deeply held beliefs” (Bethesda Friends, 2012)

begin withholding the portion of their federal taxes used for military expenditures. Not only did the Bassetts begin withholding, they started discussing with others the possibility of legislative change. They began to speak with professors at the University of Michigan, where they studied, and soon became connected with Professor Joseph Sax at the Law School. Professor Sax had interviewed a number of American draft resisters who had moved to Sweden rather than fight in the Vietnam War. Professor Sax introduced the Bassetts to Michael Hall, a University of Michigan Law Student. Using the preliminary work done by Thomas Towe, in January of 1971, Bassett, Sax, and Hall began creating the early drafts of what became the World Peace Tax Fund Bill.

Professor Sax suggested that the proposed legislation be based on a trust fund mechanism. The trust fund would be set up in such a way that any citizen of the United States who conscientiously opposes participation in all war can be recognized by the US government as a conscientious tax objector. The legislation proposed that the same criteria used by the Selective Service System for administering conscientious objector status be used for conscientious tax objector status. These conscientious tax objectors would pay their full federal tax obligation on income, estate, or gift taxes. Congress would appropriate these monies only for non-military purposes.

Over the next year, Bassett, Hall, and Sax garnered support for the World Peace Tax Fund Bill from their local Friends Meeting and the Ann Arbor Interfaith Council for Peace. Buoyed by this support, Bassett took the WPTFB to Washington, D.C., and spoke with organizations affiliated with the historic peace churches (Brethren, Mennonite, and Quaker). Bassett received support from Delton Franz, the director of the Washington office of the Mennonite Central Committee (M.C.C). After receiving support from the

M.C.C. Washington D.C. office, Bassett set up a meeting of interested parties hosted by the Friends Committee on National Legislation. At this meeting in January of 1972, Representative Ronald Dellums announced that he was prepared to introduce the World Peace Tax Fund Bill into Congress as well as work to find additional cosponsors. The group also decided to formally create an organization solely dedicated to the creation of the World Peace Tax Fund Bill. The National Council for a World Peace Tax Fund (N.C.W.P.T.F.) would continue to be housed in Ann Arbor until sufficient resources could be obtained to open an office in Washington, D.C.

On 17 April 1972, the World Peace Tax Fund Bill was introduced as H.R. 14414 with Ronald Dellums as the lead sponsor and nine cosponsors.³⁵ Ultimately, the bill was pigeonholed in committee and received little traction. However, during 1975, the N.C.P.T.F. set up a permanent office in Washington, D.C. The office was located in the Friends Meeting of Washington, near the Dupont Circle. During the next few years, the N.C.P.T.F. had three dedicated staff persons: Bill Samuel, Sister Mary Rae Waller, and William Strong. During the same year, 1975, Representative Dellums introduces the W.P.T.F. Bill (H.R. 4897) in the House of Representatives for the second time. Eighteen co-sponsors joined him.

In September of 1982, Marian Franz became the executive director of N.C.W.P.T.F. She remained the executive director until 2005. As the executive director, she was the lead lobbyist for the Peace Tax Fund bill. During her leadership, the N.C.P.T.F. saw changes to the name, wording, and Congressional support for the bill. In 1982, the N.C.W. P.T.F. changed its name to National Campaign for a Peace Tax Fund

³⁵ Mr. Rosenthal, Mr. Kastenmeier, Mr. Rangel, Ms. Abzug, Mr. Ryan, Mr. Mitchell, Mr. Diggs, Mr. Bingham, and Mr. Conyers

(N.C.P.T.F.). In 1985, in response to growing awareness that international peace tax organizations are uncomfortable with the use of the term “world” in the bill’s name, the N.C.P.T.F. approved changing the bill’s name from World Peace Tax Fund Bill to U.S. Peace Tax Fund Bill. In 1998, in order to emphasize the First Amendment right to freedom of religious expression, the U.S. Peace Tax Fund Bill changed its name to the Religious Freedom Peace Tax Fund Bill. This same year, Representative John Lewis became the lead congressional sponsor; he remains the bill’s lead sponsor.

On 17 March 2011, Representative John Lewis introduced The Religious Freedom Peace Tax Fund Act of 2011 (H.R. 1191). H.R. 1191 currently has seven cosponsors: Rep. John Conyers, Rep. Raul Grijalva, Rep. Rush Holt, Rep. Jesse Jackson Jr., Rep. Ron Paul, Rep. Fortney Pete Stark, and Rep. Lynn Woolsey. The Bill was referred to the House Ways and Means Committee.

3.4.2. How the Bill Works

The current bill proposes to amend the Internal Revenue Code so that conscientious objectors’ income, estate, and gift taxes would be utilized solely for non-military purposes. The Act would create the Religious Freedom Peace Tax Fund, a trust fund within the United States’ Treasury. In this trust fund, the full amount of the conscientious objector’s tax payments would be placed. The current bill makes the Secretary of the Treasury responsible for depositing the conscientious objector’s tax payments into the trust fund. Further, the Secretary of the Treasury is responsible for allocating the money within the trust fund to non-military purposes. For the purposes of this bill, the following activities and programs are deemed military purposes under the

Act: the Central Intelligence Agency, the National Security Council, the Department of Defense, and the Selective Service System. Further, certain other government agencies have particular departments associated with the military, which would not qualify for access to the trust fund money. (N.C.P.T.F., 2012)

The bill provides that the Internal Revenue Service would determine who meets the statutory definition of a “conscientious objector” using the same process as the Selective Service uses to apply the Military Selective Service Act’s exemption. Further, the identification procedures will only be used by the I.R.S. when it conducts an audit. Meaning, that only if someone is audited by the I.R.S., will her/ his self-classification as a registered conscientious tax objector be questioned. (N.C.P.T.F., 2012)

CHAPTER IV

CASE STUDY

4.1. Introduction to the Case Study

The purpose of this case study is to examine how the conscientious tax objector movement relates to the idea of the Religious Freedom Peace Tax Fund as well as to consider the effects of enacting the law. Explaining the nature of the community's relationship to the fund helps clarify how the uneven support for this method of resistance manifests itself outside the movement. This relationship is closely aligned with the effectiveness of legislative support for conscientious tax objection. As the movement is not firmly in support of the fund, members of Congress are not effectively encouraged to be actively involved in a creative conflict resolution process.³⁶

4.1.1. Information Sources

My case study originated in November of 2008 when I attended the annual meeting of the National War Tax Resistance Coordinating Committee. During what became an eye-opening long weekend, I hosted Kathy Kelly, the co-coordinator of Voices for Creative Nonviolence and a personal hero, at my house for two nights. I also attended the multi-day conference where I had the opportunity to have one-on-one conversations with many of the leaders of the movement. At that time in my life, I was learning about new methods of nonviolent direct action and assessing whether I wanted

³⁶ This is an observation from my personal conversations with conscientious tax objectors. For the duration of this chapter, any factual item that is not specifically cited should be assumed to be information gathered in the field.

to participate. I thought conscientious tax objection was an interesting method of nonviolent resistance for these reasons:

- Form of resistance that is directed at diminishing the United States' military industrial complex
- Form of resistance that is unabashedly bottom-up grassroots
- Form of resistance in line with the teachings of the nonviolent Jesus of Nazareth

To initiate this study, I conducted informational interviews with 12 current and former conscientious tax objectors who became my early informants. I researched relevant case law and statutory authority, the theological rationale for pacifism and conscientious tax objection (concentrating on my own Christian faith tradition), and the history of tax resistance in the colonies and the United States. After completing my initial research, I scheduled formal interviews with 42 current and former conscientious tax objectors. I re-interviewed some of the original 12 informants.

4.2. Methods

This section is a summary of how I gathered information over the course of this project. These methods include direct observations of the National War Tax Resistance Coordinating Committee's annual meeting, summaries of relevant case law and statutes; review of tax resistance organizations' websites, informal conversations with current and former conscientious tax objectors, research and study into Christian pacifism, and formal interviews with conscientious tax objectors. During the course of this research my knowledge about the methods of conscientious tax objection drastically improved. As I became more connected with the conscientious tax objector movement I noticed a shift in

my bias. During the course of my research I spent time in the Southern Hebron Hills of Occupied Palestine and in the poorer neighborhoods of Cairo, Egypt. I witnessed first hand the direct effects of United States military spending. All of these experiences helped me to gain access to prominent internationally respected activists as well as influential members of the conscientious tax objector movement.

4.2.1. Information Gathering Methods

I have already mentioned the six main sources of information used in this thesis: observations at the National War Tax Resistance Coordinating Committees' annual meeting, informal informational interviews with current and former conscientious tax objectors, formal interviews with current and former conscientious tax objectors, relevant case law and statutory authority, Christian pacifism literature, and tax resistance literature.

Kathy Kelly stimulated my interest in the nonviolent direct action resistance method of conscientious tax objection as well as in solidarity and witnessing in the Middle East. Kelly is a long time peace activist and a Catholic Worker from Chicago, Illinois. Kelly and other members of Voices for Creative Nonviolence lived in Baghdad, Iraq, during the 2003 "Shock and Awe" bombing. In 2004, she "crossed the line" at Fort Benning³⁷ and served three months in federal prison. During the late 1980's, Kelly was

³⁷ "Crossing the line" is the term used in the School of America's Watch (SOA Watch) movement when someone trespasses into Fort Benning during the annual protest to close the Western Hemisphere Institute for Security Cooperation (WHINSEC) at Fort Benning, Georgia.

sentenced to one year in federal prison for plowshare³⁸ nonviolent direct actions at a number of nuclear missile silo sites. Furthermore, since 1980, Kelly has refused to pay all forms of federal income tax.

During the time that Kelly spent as a guest in my home, we talked about the Catholic Worker movement, nonviolent direct action, tax resistance, and, most importantly, solidarity and witnessing in the Middle East. Kelly encouraged me to look into joining the non-governmental organization, Christian Peacemaker Teams (C.P.T.) as a way to learn first-hand the effects of the United States' military industrial complex. Many of our conversations were centered on the same theme: as a follower of the nonviolent Jesus, was I really living the lifestyle that I professed to support? As a pacifist and someone who prayed for peace, why was I paying for war? Kelly, gently yet firmly, encouraged me to look inward and discover how I was contributing to war. In Kelly, I found a woman who not only professes an ideal, but also lives that ideal. Kelly encouraged me to continue to research conscientious tax objection not only from a theoretical perspective but as a tangible reality.

After attending the general meeting, I remained connected to local and national conscientious tax objectors. I continued to engage in dialogue and self-introspection regarding participation in war. I found myself more entrenched in nonviolent direct actions: I engaged in civil disobedience, joined the Hang Up On War campaign, and traveled to South Hebron Hills of the Occupied Palestine and poverty stricken neighborhoods of Cairo, Egypt. During these travels and actions, I continually engaged

³⁸ According to the preeminent pacifist and conscientious tax objector, John Dear S.J., a plowshare action is a nonviolent direct action. The witnesses for peace are driven by “ a single vision . . . of the great oracle of Isaiah 2: ‘They shall beat their swords into plowshares and study war no more’ ” (Dear, 2009)

in moving conversations with current and former conscientious tax objectors. The conversations ultimately followed the same pattern:

- What led her/him to become a conscientious tax objector?
- How did her/his family and friends react to this action?
- Why did s/he choose to continue the resistance after the I.R.S. assessed a penalty and or fine?
- What does it feel like to know that her/his conscience is free?
- Is tax resistance relevant and/or effective?
- What does it mean to be a follower of the nonviolent Jesus while continuing to pay for the death and destruction caused by the military industrial complex?

As I continued to have the same type of conversation with very different individuals, I realized my own interest and desire to learn more about conscientious tax objection. Each conscientious tax objector that I encountered encouraged me to remain in contact, and I took her/him up on the offer. I received many email updates and blog postings from these conscientious tax objectors informing me about current and upcoming nonviolent direct action campaigns.

While the initial purpose of these conversations was solely personal, I soon decided that my interest in conscientious tax objection was worth investing my time and resources. I began to consider exploring the topic in depth for my Master's thesis. After some initial literature research, I asked each of my initial contacts if s/he would be willing to participate in more formal interviews for this project. With a few exceptions everyone agreed and referred me to additional conscientious tax objectors. After concluding the interviews and my research, I decided that I had gathered enough

information to complete this thesis. While a more formal quantitative research survey of current and former conscientious tax objectors might provide additional information, it would lack the richness of the personal conversations that produced much of the information for this thesis. Conversing one-on-one over a shared meal, engaging in nonviolent direct actions as part of affinity groups, or engaging in informal phone and e-mail conversations with current and former conscientious tax objectors has informed my conclusions.

For example, while participating in school patrol in the South Hebron Hills of Occupied Palestine, I learned from Sari, (name changed to protect identity) a permanent member of C.P.T., that she was a committed pacifist. In her opinion, the best way to resist paying for the military industrial complex was to live simply. Her belief in the nonviolent Jesus informed her decisions. She quoted from the work of Sister José Hobday (2006)³⁹, “I think that it is the promise of freedom that really attracts us to simplicity, that it is the desire to expand and explore”(p. 4). Sari went on to say that Hobday says, “Theologically, it is refusing to worship the idol and insisting on the freedom to worship the one true God. If making and spending more and more money is the cultural way, then simple living is taking a powerful stand against it” (p. 88-89). I know that Sari said these words to me, because I wrote them in my journal later that night. Her profound emphasis on simple living as a form of nonviolent direct action resistance had an enormous impact on my consideration of tax resistance. By observing the freedom that Sari had by not paying into the military industrial complex, I began to understand the power conscience can have. Conversing with Sari helped to shape my

³⁹ Sister José Hobday was an influential spiritual lecturer, author, and storyteller. Hobday, a Sister of the Franciscan Order, is well known for her many books on prayer and spirituality. Hobday was a leader in the Catholic simple living lifestyle.

conclusion that simple living is every bit as powerful a resistance as the other methods detailed in this thesis.

Still, not all difficulties were overcome. Many conscientious tax objectors, who I very much desired to interview, did not return my phone calls, e-mails, or postal letters. Some individuals were less than forthcoming with the details of their method of resistance, understandable, but still discouraging. Others told in depth stories of events in their life over the informal settings of shared meals, and I failed to document the exact details. My own embarrassment kept me from asking clarifying questions in some occasions. Perhaps the greatest difficulty I had was learning how to phrase my questions to get the most helpful responses. The later, formal interviews produced the greatest amount of usable data. However, I found each interview to be instrumental in helping define this thesis as well as my own personal relationship with conscientious tax objection.

4.2.2. Formal Interviewee Descriptions

The 42 conscientious tax objectors with whom I spoke are geographically diverse yet for the most part socio-economically and culturally alike (see table 2 on p. 77). My selection of these particular conscientious tax objectors was based on prior contacts. Having already communicated with 12 of the 42, my data set may have been limited by my selection method since I asked my initial contacts for introductions to additional conscientious tax objectors. However, after asking each interviewee about her/ his feeling on the cultural and socio-economic make up of most conscientious tax objectors, I think the dearth of minorities, including, members of the permanent poor class, in my

data set is comparable to the statistics of all conscientious tax objectors. Andrea Ayvazian, a long-time conscientious tax objector, says in the documentary, *Path of Greatest Resistance: tax resistance in Western Massachusetts*, that “there are a lot of us in the middle class, and I would say there are more people that are choosing to live very simply and are making decisions to reduce their income, but in terms of the numbers of tax resisters that grew up working class, I don’t know” (Weye, 1992). Her lack of awareness of this group may substantiate my conclusion that most conscientious tax objectors are from the same socio-economic status.

Table 2: Basic demographic statistics for each conscientious tax objector

RESISTER	EDUCATION	F/M	RACE	YEARS OBJECTING	SOCIO-ECONOMIC	RELIGION
1	Masters	F	White	30+	Low-Income	R. Catholic
2	Masters	F	White	30+	Low-Income	Quaker
3	Undergrad	F	White	15+	Low-Income	Jewish/ Quaker
4	J.D.	F	Persian	1	Middle Class	Quaker
5	Masters	F	White	1	Middle Class	R. Catholic
6	Masters	M	White	1	Middle Class	R. Catholic
7	Undergrad	F	White	25+	Low-Income	n/a
8	Ph.D.	M	White	35	Upper Middle Class	Quaker
9	Undergrad	F	White	30_	Low-Income	Mennonite
10	Undergrad	F	White	20+	Low-Income	Mennonite
11	Masters	F	White	20+	Low-Income	Mennonite
12	Ph.D.	F	White	40+	Low-Income	R. Catholic
13	Ph.D.	M	White	varies	Middle Class	Mennonite
14	Ph.D.	M	White	varies	Middle Class	Quaker
15	M.D.	M	White	30+	Low-Income	Quaker
16	Masters	M	White	20+	Low-Income	n/a
17	Masters	M	White	15+	Low-Income	Jewish
18	Undergrad	F	White	2	Low-Income	R. Catholic
19	Masters	M	White	5	Low-Income	R. Catholic
20	Masters	F	White	varies	Upper Middle Class	R. Catholic
21	Masters	M	White	15	Low-Income	n/a
22	Undergrad	M	Asian	2	Middle class	n/a
23	Undergrad	M	White	3	Middle Class	Quaker
24	Masters	F	White	10	Low-Income	Mennonite
25	Undergrad	F	White	20	Middle Class	Mennonite
26	Masters	F	White	10	Middle Class	Nazarene

27	Ph.D.	M	Black	26	Upper Middle Class	Pentecostal
28	Ph.D.	F	Black	30	Upper Middle Class	Pentecostal
29	J.D.	F	White	15+	Low-Income	Jewish
30	J.D./ Ph.D.	F	White	10	Upper Middle Class	Methodist
31	M.D.	M	White	6	Upper Middle Class	ELCA
32	M.D.	M	White	6	Upper Middle Class	ELCA
33	Masters	F	Black	1	Middle Class	S. Baptist
34	Masters	M	White	1	Middle Class	Methodist
35	Undergrad	F	White	5	Middle Class	Methodist
36	Masters	F	White	6	Middle Class	Episcopalian
37	Masters	F	White	15	Middle Class	R. Catholic
38	Masters	F	White	3	Middle Class	Mennonite
39	Masters	F	Hispanic	2	Middle Class	Methodist
40	Undergrad	F	White	2	Middle Class	Nazarene
41	Masters	F	White	4	Middle Class	ELCA
42	Undergrad	M	White	15	Middle Class	Mennonite

Table 2 shows some basic demographic statistics for each conscientious tax objector whom I interviewed. I asked each conscientious tax objector her/his highest level of education, the gender s/he identifies with, her/his race, the number of years s/he has resisted taxes, her/ his current socio- economic status, and the religion(s) with which s/he most identifies.

The majority of conscientious tax objectors in my data set, 26 of the 42, are female. The data set includes one female who identifies as Hispanic, two females who identify as African American, one male who identifies as African American, one male who identifies as Asian American, and one female who identifies as Persian. The remaining 36 conscientious tax objectors identify as White.

The data set includes 15 conscientious tax objectors who identify as low-income, 19 conscientious tax objectors who identify as middle class, and eight who identify as upper middle class. It should be noted that many conscientious tax objectors, whom I interviewed, might currently identify themselves as low-income, yet many were not raised as part of the permanent poor class, but, in many cases, as upper-middle class. For

example, conscientious tax objector #21 states that she has been low-income since 1982. However, prior to choosing the simple living lifestyle, she was raised in an affluent suburb of St. Paul, Minnesota, and graduated from the University of Oregon with a Master's degree in Education. Furthermore, she maintains her low-income status by working substantially less than full-time as a professional textbook editor and freelance journalist. Conscientious tax objector #29 states that she has been low-income since the mid-1990's. However, prior to her adoption of the simple living lifestyle, she was raised in an affluent Jewish family in New York City and graduated from Harvard Law School. Furthermore, she owns her home, with no mortgage, and grows and raises most of her dietary needs, such as organic vegetables and fruits and protein (in the form of free-range chickens) on her property. Moreover, she maintains her low-income status by offering her legal services on the gift economy⁴⁰. The lowest education level of the conscientious tax objectors I interviewed was an undergraduate college degree. Of the data set, 11 of the 42 conscientious tax objectors' highest level of education is an undergraduate degree. 19 of the conscientious tax objectors' highest level of education is a Masters degree. 11 of the conscientious tax objectors' highest level of education is a terminal degree (J.D., M.D., and Ph.D.). One conscientious tax objector, #30, has both a J.D. and a Ph.D.

I chose to ask only with what religion the conscientious tax objector currently identifies her/himself rather than ask in what, if any, religion the conscientious tax objector was raised. The data set includes eight Roman Catholics, six Quakers, eight Mennonites, two Jews, two Nazarenes, two Pentecostals, two Methodists, two

⁴⁰ Tree Bressen, a well-known and respected facilitator, describes her practice of the gift economy as, "I do not have any set fees for my work. I ask groups to pay me an amount that feels good and right and fair to them, that they can afford, and that they can give joyfully. The same request applies to individuals attending public workshops" (Bressen, 2012).

Evangelical Church of America Lutherans, one Southern Baptist, one interviewee who identifies as a Jewish Quaker, and four conscientious tax objectors who stated that they belonged to no church and were not religious. However, these four conscientious tax objectors did not identify as agnostic or atheist when asked.

Finally, it should be noted the majority of conscientious tax objectors whom I interviewed were women. This data set should in no way serve to suggest that the large majority of conscientious tax objectors are women. Simply, I believe that as many of my initial contacts were women, and I myself am a woman, I was more often referred to women.

4.3. Observations

4.3.1. Introduction to Conscientious Tax Objection

A consistent theme during most interviews was how the interviewee became aware of conscientious tax objection. Conscientious tax objector #8 shared that, “People have concrete role models in their own personal life, and you are influenced by contact; that is how it happened to me 6 years ago” (Contentious tax object #8, personal communication, March 20, 2012). Consistently, throughout the interviews, the conscientious tax objectors shared that a friend, family member, or personal hero was a conscientious tax objector before they themselves joined the movement. No conscientious tax objector claimed to have discovered the idea of tax resistance on her/his own.

4.3.2. Theological Support for Conscientious Tax Objection

During my interviews, I found a consistent theme when speaking with conscientious tax objectors who were in favor of the Religious Freedom Peace Tax Fund Act: a spiritual identification closely aligned with a Christological belief system. However, not everyone identified her/himself as “Christian”. When asked, I heard responses ranging from I am a practicing Roman Catholic; I am a follower of the nonviolent Jesus; I am a Christo-humanist; I attend a Friends meeting and I find comfort in the teachings of Jesus of Nazareth; I am an Evangelical Christian; I am a Methodist, etc. Many conscientious tax objectors cited the teachings of Jesus in the Gospels as the rationale behind their tax resistance. As I interviewed more conscientious tax objectors, I decided to look deeper into the doctrinal teachings that were often cited to justify tax resistance.

While the passages that I researched are all Christian, I do not want to suggest that it is only individuals following Christian traditions who practice religious conscientious tax objection. To make that claim would be false. During my field research, I met with Muslim, Baha’ia, Buddhist, Jewish, atheist, agnostic, and secular conscientious tax objectors. I, also, formally interviewed a few conscientious tax objectors who cited faith traditions other than Christian but did voice faith considerations as their main reason for engaging in religious conscientious tax objection. These religious conscientious tax objectors cited teachings from their own faith traditions as the rationale behind the decision to resist taxes. With more time and resources I would gladly discuss other traditions. However, in the absence, I focused discussion on the Christian teachings cited by religious conscientious tax objectors.

For most Christians, the morality of the just war has been accepted with little questioning. For centuries, many have fought in the current “Caesar’s” wars with little hesitation. Prior to Constantine’s adoption of Christianity in AD 311, Christians were taught that war and violence were never justifiable. Christians refused to participate or support such violence. These early Christians followed the nonviolent Jesus. They accepted the teachings of agape love and lived nonviolent lives. (González, 2010)(Pohlsander, 2004)

Citing Matthew 17:24-27 as a Christian justification to conscientious tax objection, Kaufman (1969) explores the conversation between the Apostle Peter and Jesus around the topic of whether or not Jesus paid the Temple Tax. Kaufman argues that Jesus’ analogy between the question of from whom do kings collect taxes and the question of if Jesus pays the two-drachma Temple Tax demonstrates Jesus’ belief that the “the inward attitude of the spirit . . . was incompatible with the compulsory legal payment of a tax for worship” (p.33). Further, Kaufman notes that as the political situations of the early Christians changed, the meaning of that story probably changed as well. He specifically notes that the need to question compulsory taxes was very present when the Temple Tax became a Roman Tax. (p. 34).

The often quoted passage, “Render to Caesar the things that are Caesar’s and to God the things that are God’s” (Matthew 22: 15-22 and Luke 20:20-26) has great importance in the conflict between the freedom of conscience and required taxation. In the parable, the Pharisees and Herodians mean to trick Jesus when they ask the question, “Is it lawful to pay taxes to the emperor, or not?” (Matthew 22:17) According to Kaufman (1969, p. 36), a simple yes or no answer would have trapped

Jesus. Instead, Jesus socratically answers the question with the request to show him a coin. Ostensibly, Jesus did not possess a coin because as the Roman denarius bore the image of Caesar to do such would violate the Second Commandment.⁴¹ However, apparently one of the questioners had a coin, because Jesus asks, “Whose head is this, and whose title?” They answered, “The emperor’s,” then he said to them, “Give therefore to the emperor the things that are the emperor’s, and to God the things that are God’s” (Matthew 22: 20-22). Arthur Harvey, as Kaufman (1969) writes, believes that Jesus was simultaneously giving two answers. “For those whose loyalty was already given to Caesar as shown by their possession of Caesar’s coin involving Caesar’s claim to be God, well, of course they had an obligation to pay the tax. For those whose lives were oriented toward God, they would not owe Caesar anything” (p. 36).

4.3.3. Personal Direct Contact With Victims of American Military Industrial Complex

Every conscientious tax objector, whom I interviewed, without exception, stated that s/he had a personal experience with the victims of the United States of America’s military industrial complex. Each conscientious tax objector, in her/his own way, stated that meeting and spending time with foreign civilians who had experienced negative effects from direct or indirect contact with the United States’ military industrial complex was a major reason for her/his engagement in tax resistance.

Each conscientious tax objector had a different and unique first hand experience. While giving a synopsis of each would be interesting, in the interest of being concise, I

⁴¹ “You shall not make for yourself an idol, whether in the form of anything that is in heaven above, or that is on the earth beneath, or that is in the water under the earth” (Exodus 20:4).

have decided to share the story that conscientious tax objector #33 told to me.

Conscientious tax objector #33, a female African-American Southern Baptist, spent one year as an English instructor in the United Nations Relief and Works Agency for Palestinian Refugees' (U.N.R.W.A.) Dheisheh Camp, in Occupied Bethlehem, Palestine. Conscientious tax objector #33 shared that, as a Southern Baptist, she initially began her work at the camp with more of a tendency to support the Israeli political cause in the Israeli/Palestinian Crisis. However, after a few short weeks, living and working in the refugee camp, conscientious tax objector #33 began to understand the ramifications of the United States government's 30 billion dollar annual support in military aid for the Israeli Occupation of Palestine (Reubner, 2011). Conscientious tax objector #33 said that living with a third generation refugee family in Dheisheh Refugee Camp changed not only her beliefs about the Israeli/Palestinian Crisis but also her personal financial support of the United States military industrial complex. After returning to the United States, Conscientious tax objector #33 became involved with local peace organizations. Through her involvement in the peace communities, she became acquainted with conscientious tax objectors. Conscientious tax objector #33 has been a conscientious tax objector for one year.

4.3.4. Reactions to Penalties, Interest, and Punishments

I specifically asked each interviewee about her/his personal repercussions from resisting taxes. From my initial informational interviews and research, I learned that no one conscientious tax objector's story regarding penalties, interest, and punishments was exactly like another's. In deciding to engage in resistance, the new conscientious tax

objector has no guarantee of “what will happen” to her/him after s/he engages in the resistance. With varying degrees of emotion, most conscientious tax objectors did, however, state a high level of anxiety after receiving the first, of many, correspondences from the I.R.S. regarding the resistance. During the course of the interviews, I heard from conscientious tax objectors who had had wages garnished, Social Security Benefits garnished, bank accounts seized, had received phone calls from I.R.S. agents at work and home, had received in-person visits from I.R.S. agents at her/his primary residence, and had vehicles and homes seized and auctioned. However, I also spoke with six conscientious tax objectors who currently do not file and have, to date, not received any communication from the I.R.S. regarding the non-filed years.

4.3.5. Why a Particular Method of Resistance

Most interviewees confirmed my assumption that phone tax resistance is the “gate-way” method. The ten conscientious tax objectors who had never resisted phone taxes stated their sole phone line was a cell-phone at the time of initial resistance and, thus, phone tax resistance was not applicable to them, as cell phone carriers no longer impose the excise tax. Phone tax resistance aside, no conscientious tax objector whom I interviewed practiced the same exact method as any other interviewed conscientious tax objector. As each conscientious tax objector’s method is different, I will describe the methods of two conscientious tax objectors on opposite ends of the method spectrum, resist and refuse, as a way to highlight the decision-making experience of a conscientious tax objector.

Conscientious tax objector # 8, a university professor, has resisted taxes in one form or another for more than 35 years. As a full-time university professor, conscientious tax objector #8, earns an income well above the taxable line. However, by practicing W-4 and phone tax resistance is able to withhold a significant portion of her/his tax obligation every year. However, for the last 16 years, conscientious tax objector #8 has had wages garnished and a bank account seized. When asked why s/he continues to engage in conscientious tax resistance, conscientious tax objector #8 replied, “Ultimately the government will get the money one way or another, that’s not the point. Rather, I am not voluntarily handing it over. The government compels me to participate in paying for murder. Yes, I could retire or get a lower paying job and reduce my income. I could do that, but I don’t want to do that. I like teaching; it is my purpose” (Conscientious tax object #8, personal communication, March 20, 2012).

In contrast, conscientious tax objector # 30 refuses all federal income taxes and has refused for 10 years. Conscientious tax objector #30 holds a J.D. from Harvard and a Ph.D. from University of Chicago. In order to successfully refuse, conscientious tax objector #30 has drastically reorganized her/his lifestyle. Conscientious tax objector #30 does not own a home, car, or maintain a bank account. Conscientious tax objector #30 believes that the I.R.S. claims s/he owes more than \$500,000.00 in back taxes, interest, and penalties. S/he does not know the exact amount because, “I no longer open the notices; I recycle them. I’m not going to pay, I don’t have anything for them to seize and I don’t earn enough money for them to garnish. I refuse to participate in war” (Conscientious tax objector #30, personal communication, March 19, 2012).

Conscientious tax objector #30 is the only conscientious tax objector whom I interviewed

who stated that s/he is upper middle class and is a refuser. I asked for clarification of this response because it seemed impossible to be upper middle class and continue to refuse. Conscientious tax objector #30 stated that even though s/he no longer earns a wage that, “allows membership in that class, by luxury of my birth, I received the best education available and I could earn more if I chose to earn more. I am undeniably upper-middle class” (Conscientious tax objector#30, personal communication, March 19, 2012).

Conscientious tax objector #1 has refused all taxes for more than 30 years. When asked why s/he chose the refusal method, conscientious tax objector #1 replied,

I realized that my neighbors didn't have food and that the children would be remarkable if they made it though their teenage years, and that people in my neighborhood were sleeping in abandoned buildings. There's no way I was going to go to a teaching job and spend much of my teaching day trying to teach youngsters about opposition, radical opposition to nuclear weaponry and then take a third of my income and then pay for nuclear weapons and the rest of it. It wasn't even a question once I realized that I didn't have to pay those taxes. I never will pay those taxes and since the day that I first made that determination, there hasn't been a doubt in my mind. I will never pay federal income tax. (Conscientious tax objector #1, personal communication, January 4, 2012)

Further, conscientious tax objector #1 said that becoming a war-tax refuser, “. . . affects one's personality. I developed an edge, and I had to learn the skill, more the art form of how to engage in refusal and resistance without creating enmity or deepening enmity” (Conscientious tax objector #1, personal communication, January 4, 2012)

4.3.6. Reactions by Non Conscientious Tax Objector Family Members and Friends

Most interviews included a lengthy description of a disappointing interaction with a family or friend after the conscientious tax objector became public with her/his resistance. Some conscientious tax objectors encountered upset friends and family, others encountered anger and abuse from family and friends, while others encountered divorce and shunning. Most conscientious tax objectors shared stories of multi-year long conversations and multiple intervention sessions by family and friends attempting to convince the conscientious tax objector of the errors of her/his way. While most conscientious tax objectors described eventual reconciliation with their family and friends, a few conscientious tax objectors shared narratives of permanent dissolutions of marriage and/or platonic relationships.

One such dissolution of a marriage involved conscientious tax objector #2. Conscientious tax objector #2 was married to a fellow Quaker for more than twenty years before her husband filed for divorce. Her husband cited her, “obsession with breaking the law” (Conscientious tax objector #2, personal communication, February 10, 2012) as their main difference of opinion. Furthermore, after their divorce became final, her ex-husband often tried to use her methods of resistance as evidence that she was an unfit parent. Conscientious tax objector #2 told me that these accusations, while hurtful and upsetting, often gave her strength to continue her resistance. Conscientious tax objector #2 said,

Knowing that my ex-husband believed that it was more moral to pay for the murder of innocent children than it is to break an unjust law gave me the strength to continue to fight our custody battle. I didn’t want him to be the sole parental

influence on our children. I worried about how he would raise them.

(Conscientious tax objector #2, personal communication, February 10, 2012)

4.3.7. Reactions to the Religious Freedom Peace Tax Fund Act

Perhaps the greatest variation among the interviewed conscientious tax objectors was how each answered the question about registering as a conscientious tax objector if the Religious Freedom Peace Tax Fund Act became law. Of the 42 interviews, 20 answered in the affirmative, four answered maybe, and 18 gave varying degrees of a negative response. Among the 20 who answered yes with no qualifiers, two conscientious tax objectors, #15 and #24, are currently not only conscientious tax objectors but also refusers. The reasoning behind the opinions highlights the different factions within the movement. Below I compare the differing approaches to the Religious Freedom Peace Tax Fund Act as reported in the interviews. I have grouped the responses by positive and negative, with the former meaning that the conscientious tax objector would register if the option became available and the latter meaning the opposite.

Positive

For the interviewees who answered in the affirmative, a major theme was present in their answers. Each conscientious tax objector cited advantages of a peace tax fund as their main rationale of support. The advantages can be grouped as follows: restoring freedom of religion as protected in the First Amendment; creating tremendous educational opportunities; making meaningful step towards raising national consciousness; and facilitating the passage of similar legislation in other countries.

Many conscientious tax objectors stated that the restoration of the freedom of religion is one of the very “first freedoms” (Conscientious tax objector #23, personal communication, January 5, 2012) and is a “cornerstone of a democratic society” (Conscientious tax objector # 8, personal communication, March 20, 2012). Further, some conscientious tax objectors said that the First Amendment should protect individuals whose religious or moral convictions forbid participation in war, whether physical or financial. For these reasons, many conscientious tax objectors believe that the Religious Freedom Peace Tax Fund Act is worth supporting.

Conscientious tax objector # 31 cited the educational opportunities as reason to support. Once the Fund becomes law, information about the availability of conscientious tax objector status would accompany all income tax form publications. This added visibility would provide a much-needed educational opportunity for the movement. Conscientious tax objector # 42, a registered conscientious objector, stated that, “as information about CO’s [conscientious objectors] cause guys to weigh their conscience, so will information about The Fund for tax stuff.” (Conscientious tax objector #42, personal communication, January 10, 2012)

The Religious Freedom Peace Tax Fund Act would provide an opportunity to quantifiably measure the public’s opinion of war. As conscientious tax objector #40 stated, “. . . since the number of conscientious tax objectors will be reported to Congress every year, we will have data to substantiate our statements. The Bill provides for direct feedback to our elected representatives and is another tool to hold them accountable.” (Conscientious tax objector #40, personal communication, January 9, 2012)

Conscientious tax objector #13, who works for an international progressive monthly magazine, said that passing the bill would be a “watershed event” (Conscientious tax objector#13, personal communication, February 5, 2012). If passed, the United States Government would be acknowledging that, “its citizens have a just claim to freedom of conscience” (Conscientious objector #13, personal communication, February 5, 2012). Furthermore, conscientious tax objector #13 suggests that this event may provide the catalyst for additional countries to pass similar bills.

Negative

For the interviewees who answered in the negative, a major theme present in their answers was that the bill is too weak. Most non-supporting conscientious tax objectors stated that a peace tax fund, especially as it is written today, would not bring enough change. The disadvantages or reasons for being against the bill are as follows: is no more than a shell game; is an easy way out for people who are fearful of not paying taxes; is written in a way that alienates non religious conscientious tax objectors; is allowing the government the sole decision as to who is a conscientious objector; is seeking permission from an inherently corrupt system; and is sending the wrong message about conscientious tax objectors.

“Where will the money go?” This question was, without exception, the first answer I received when I questioned why the interviewee did not support the Religious Freedom Peace Tax Fund Act. Additionally, conscientious tax objector #1 stated that, “[it] will not change anything, it’s a Shell Game” (Conscientious tax objector#1, personal communication, December 4, 2011). These conscientious tax objectors, who do not support the Religious Freedom Peace Tax Fund Act, claimed that the fund only draws

attention away from the problem. Conscientious tax objector #7 explained in a detailed e-mail why s/he would never support the fund. Conscientious tax objector #7 said,

The only way that it would affect military spending is if the general fund becomes smaller than the amount spent on the military. If that happens, the government would either have to borrow money, borrow from the Peace Fund or reduce military spending. But it gets better, because what matters is how many people are necessary for anything to change. If the total percentage of peace tax people isn't more than the percentage of the budget spent on the military, then nothing will happen. I'm sorry, but I don't think that 50% of Americans are opposed to war in any form. So, I don't think that this change will ever happen. This bill will never work. (Conscientious tax objector #7, personal communication, December 20, 2011)

Furthermore, conscientious tax objector #16 stated that if the percentage of Americans was large enough to make a difference in the budget, as conscientious tax objector #7 explained, the bill is itself redundant. Conscientious tax objector #16 said if that many Americans were against war in any form, "We would all already either be living productive and sane lives in a peaceful tomorrow of harmony and understanding, or living in barbed-wire collective labor camps under the control of our foreign overlords, depending on your brand of speculative fiction." (Conscientious tax objector #16, personal communication, January 15, 2012)

Regarding the alienation of non-religious conscientious objectors, conscientious tax objector #9 said that, "Many resisters [conscientious tax objectors] are not religious, so when the Peace Tax Fund Bill was rewritten to align more closely with the First

Amendment right to freedom and religious expression, they felt more alienated from it” (Conscientious tax objector #9, personal communication, March 21, 2012). Furthermore, conscientious tax objector #21, who reported having no religious affiliation, said that resisting has nothing to do with religion. “If it passes, I think less people will register than you expect. I won’t register because I’m not religious and I’m not going to lie just so that the government won’t garnish my wages” (Conscientious tax objector #21, personal communication, January 4, 2012).

Regarding giving the government the power to decide who is an appropriate conscientious objector, conscientious tax objector #9 shared that, “Any process that gives government bodies the power to decide who is a conscientious tax objector will create a process that forces people to resist anyway. The problems military personnel have today is, finding out about conscientious objector (CO) options and applying for a CO discharge bear out this fear”(Conscientious tax objector #9, personal communication March 21, 2012).

Among conscientious tax objectors who support an anarchist philosophy and lifestyle, the idea of seeking permission from an inherently corrupt system, in their opinion, is not appropriate. Conscientious tax objector #12, a long-time Catholic Worker said,

We at the Los Angeles Catholic Worker do not pay any form of income tax, nor do we associate ourselves with the government by filing as a 501 (c)(3) non-profit organization. The 501 would involve a corporate hierarchy in our organization, as well as acknowledgment from the government. We are anarchists. We do not agree with the government in general. Thus, I don’t believe that I would apply to

the federal government for approval to not pay my taxes. It will work for some, but probably not me. (Conscientious tax objector #12, personal communication, February 10, 2012)

Further, conscientious tax objector #1, another Catholic Worker, stated that for more than 30 years s/he has not paid taxes. “I would never even think about registering with the government for permission. I gave myself permission more than 30 years ago to live an appropriate life. Registering with the government is against my moral conscience.”

(Conscientious tax objector #1, personal communication, January 3, 2012)

I heard many different versions of the statement, if conscientious tax objectors accept the bill the public will form the wrong opinion about the movement. Some conscientious tax objectors say that compromising on the bill suggests that they were not particularly conscientious at all, but can be easily bought-off by symbolic concessions (Conscientious tax objector # 36, personal communication, April 1, 2012), or that compromising on the bill may suggest that conscientious tax objectors are only willing to check a box on a form but not willing to live with the ramifications of their actions (Conscientious tax objector # 16, personal communication, January 15, 2012). I also heard that those conscientious tax objectors who are willing to compromise desire validation by their government that says they are conscientious (Conscientious tax objector #17, personal communication, January 19, 2012).

4.4. Themes That Emerge

One of my initial questions can now be answered affirmatively. Are the factions within the conscientious tax objector movement contributing to the ongoing current conflict

between freedom of conscience and required taxation? Yes. While the conflict between freedom of conscience and required taxation remains regardless of the nature of the factionalism within the movement, the factions are one part of the sustaining conflict. Relevant case law, the history of the conscientious tax objector movement and the factions within the movement are all contributing to the ongoing current conflict.

Accordingly, two major themes emerge about the conflict. The history of the conscientious objector (CO) movement reveals major implications for the conscientious tax objector movement. The CO movement's trajectory to date may provide a successful template for transforming the conflict between freedom of conscience and required taxation. Using relevant case law and statutes from the conscientious objector movement current conscientious tax objectors have abundant data to substantiate their claim that protection of this religious freedom, through judicial and legislative actions, will not necessarily open the proverbial floodgates to the protection of additional religious freedoms.

The dialectical conflict within the conscientious tax objector movement cannot be solved; but it can be transformed. The Religious Freedom Peace Tax Fund Act becoming law may be one possible transformative agent for this conflict. If registering, as a conscientious tax objector was an option, the conversation within the movement might shift. However, if the current homogenous socio-economic demographic of conscientious tax objectors changes, the movement may also be transformed. Furthermore, the outcomes of the current court cases of Elizabeth Boardman and Cindy Sheehan may transform the movement through their outcomes. A shift in dialogue from positional to peacebuilding or the superordinate goal, which Christie, Tint, Wagner, and Winter (2008) define as, "(the) shared goal that parties in conflict can only attain through mutual effort", may ultimately result in the movement's greatest transformation.

CHAPTER V

CONCLUSIONS

Conscientious tax objectors, through their efforts to protect freedom of conscience, are participating in a movement which is subject to a complex set of interactions between individual conscientious tax objectors, government, both the judicial and the legislative branches, and society within the United States. Through these interactions, conscientious tax objectors are part of an ongoing legitimizing effort to protect religious freedom. Two of the most prominent examples are individual court cases and The Religious Freedom Peace Tax Fund Act.

Many people have asked how change will happen. I offer that change happens when a coalition of concerned people coalesce into a movement. I agree with Dr. Cornel West who suggests that when a group of people marches together towards freedom, an in-group is born to overcome injustice. When the group grows and welcomes those who once were the other and now become part of the group, change happens. When an in-group starts to accept members of the out-group, a new group forms and becomes a coalition. When the coalition continues to accept new members and continues to adapt, a new movement is formed (Smiley, T. & West, C., 2012). In this respect, change is happening. The conscientious objectors are part of a movement to overcome perceived injustice.

5.1. Lessons From the Case Study

Pacifism is often thought of as a synonym for resisting war. Increasingly, the methods of war resistance are engaging with the methods of peacebuilding. Archbishop Desmond Tutu describes the concept of Ubuntu as, I am because we are, and we are because we belong (Battle, 1997). I believe that conscientious tax objectors would do well to remember what Tutu suggests that we are all connected. We exist in communities where an individual's well-being is connected to the well-being of others. While members of the movement disagree on the merits of the Religious Freedom Peace Tax Fund Act, they still remain part of the conscientious tax objection movement. There is a conflict between the conscientious tax objectors who are willing to compromise and work towards a conciliatory outcome, and those who do not support the Religious Freedom Peace Tax Fund Act. While this conflict exists, the lack of dialogue between the groups is fracturing the movement. My research suggests that unless the various factions within the conscientious tax objector movement enter into a consensus-building dialogue, conscientious tax objection will remain a mere symbolic method of pacifism rather than a powerful tool in the art of peacebuilding.

5.2. New Directions For Conscientious Tax Objectors?

Over the course of my research, I began to question the efficacy of the current conscientious tax objection campaign. While engaging in the interviews, I found myself increasingly perplexed that the Religious Freedom Peace Tax Fund has not found more legislative success. Perhaps the conscientious tax objectors might achieve better results by engaging in a process of re-evaluating their goals, tactics, tools, and, most importantly,

their interests. My research has led me to ask how can the conscientious tax objectors be more effective in their negotiations with judges, legislatures, other conscientious tax objectors, and, ultimately, with the general public? I offer these suggestions not as critiques, but rather with the desire that my commentary might be of use to a movement that I respect and admire.

I question the efficacy of the current legal methods of individual conscientious tax objectors. From the perspective of the judicial system, the legal precedent is clear. The courts consistently cite the *Lee* decision: the broad public interest in maintaining a sound tax system is of such importance that religious beliefs in conflict with the payment of taxes provide no basis for refusing to pay. The conscientious tax objectors cite their freedom of conscience as a main interest in continuing to engage with the judicial system. However, if the court continues to maintain strict adherence to the holding in *Lee*, is it possible that instead of garnering judicial support, the conscientious tax objectors are angering the courts? Perhaps the conscientious tax objectors would cite *Against Settlement*, by Owen Fiss as their rationale for continuing to bring individual cases to the courts. Fiss, (1984) states that, “. . . we turn to the courts because we need to, not because of some quirk in our personalities”(p. 1089). However, I see another option - changing the law.

This thesis illustrates the historical example of the conscientious objector movement. While the numerous court cases regarding conscientious objectors may increase the perception that allowances were won through judicial battles, in reality, the primary rights were achieved through legislative action. The precedent exists for the Legislative branch to protect an individual’s religious freedom. Why has there been little

traction for protecting the conscientious tax objector form of religious freedom? My research suggests that the fractured nature of the movement may be responsible. Many conscientious tax objectors take the position that the Religious Freedom Peace Tax Fund Act does not do enough and, thus, is not worth supporting. I wonder if the movement utilized a different negotiation approach, would more religious freedoms be protected?

Fisher, Ury, and Patton, in *Getting to Yes (2011)*, suggest that distributive bargaining, in most circumstances, is inferior to integrative bargaining. With cooperation and a focus on interests rather than positions, they argue, in most situations the pie can almost always be increased and outcomes can be created that benefit both sides. I would suggest that since the conscientious tax objectors have relationships with one another, that they most likely want to maintain, they would do well to engage in an internal negotiation process. I believe that the current zero-sum nature of the internal dialogue is prohibiting legislative movement with regards to protecting this religious freedom.

If the differing perspectives within the movement would engage in a consensus-building dialogue, the results may mitigate the current effects of Autistic Hostility on the movement. Autistic Hostility, according to Deutsch (2000), is the breaking off of contact and communication with the other. This breakdown in communication is perpetuated because there is little, if any, opportunity for the sides to learn that their misunderstanding or misjudgments may not be based in reality. While there is little communication between the two sides, there exist few opportunities to resolve the conflict. Direct communication is needed for the two parties to change their opinions. Without communication the conflict becomes more intractable. Each side views the other with more hostility, which leads to greater intractability. If the conscientious tax objector

movement would engage in a more consensus- building dialogue it would mitigate the impediment of Autistic Hostility in their reaching their goals.

5.3. Implications

This thesis has offered specific observations about the conscientious tax objector movement in the United States of America. Resistance is often cited as a powerful tactic in nonviolent direct action campaigns because of its major role in publicizing many of the most egregious enduring conflicts. Many conscientious objectors believe that the government is illegally encroaching on religious freedoms. I have suggested that the current lack of legal protections for conscientious tax objectors may be directly related to the movement's positional zero-sum approach to internal and external negotiations. Further, I have offered that while remaining true to their core values, the individual conscientious tax objectors would do well to develop different methods and strategies of nonviolent direct actions. These conclusions have implications for the wider pacifist movement as well as other minority religious groups.

First, Martin Luther King Jr., while introducing the slogan for the Montgomery Bus Boycott: "Thou shalt not requite violence with violence," made a speech on 5 December 1955, in which he said, "Our method will be that of persuasion not coercion. We will only say to the people, 'Let your conscience be your guide' "(King, 1958, p. 61-64). The conscientious tax objectors should heed Dr. King's message and engage in more persuasive methods. If their current nonviolent direct action campaign continues to meet with little success, my research leads me to question the movement's future. While

individual activists will continue to engage in her/his own conscientious tax objection, I doubt the movement will gain the new adherents needed for growth.

Second, the sociologist Erving Goffman (1963) describes stigma as the circumstance in which a person is disqualified from full social acceptance. Conscientious tax objectors are already marginalized by virtue of their status as dissenters and conscientious tax objectors. However, the Court's position in *Lee*, that broad public interest in maintaining a sound tax system is of such importance that religious beliefs in conflict are not protected, compromises their status even further. With stigma, Goffman (1963) believes shame becomes a central possibility. Individuals who hold these same religious and moral beliefs may decide to not engage in conscientious tax objection because of shame and fear. Moreover, how many conscientious tax objectors, constrained by shame, are not able to be effective spokespeople for the movement?

Finally, can the current name of the bill, The Religious Freedom Peace Tax Fund Act, constructed around the religious framework ever be a tool toward a potential compromise? This study uncovered enough anomalies, between the number of practicing religious conscientious tax objectors and the number who are in support of the Religious Freedom Peace Tax Fund Act, to lead me to posit that the current law, as written, may draw more new conscientious tax objectors to the movement rather than engaging current conscientious tax objectors.

The use of informal interviews allowed me to develop a case study that begins to show the complexities of conscientious tax objection demographics. One of the more surprising observations was the level of higher education among those interviewed. According to a US Census report for the year 2009, 27.9 percent of the United States

population held a Bachelor's Degree or more (Ryan, C & Siebens, J, 2012). Of the 42 interviewees for this case study, 100 percent held a Bachelor's Degree or more. This would suggest that the movement is an elite group. While the high level of education among conscientious tax objectors itself is not cause for concern, the group-think elitism may be. One such example from my research is the often-repeated option that an individual can easily reduce her/his income so as to not have a federal tax obligation. For a well-educated person of privilege, the possibility of reducing one's income purposefully to reduce one's federal tax obligation may seem without much risk. However, for a person identified as a member of the permanent poor class, the idea of choosing to reduce income may be baffling. The conscientious tax objectors who argue against the Religious Freedom Peace Tax Fund Act and instead offer the option of poverty may not understand that this alternative may be hurtful, harmful, and offensive to the less privileged. The apparent lack of diversity among conscientious tax objectors may be the cause or may be the effect of the message. Notwithstanding, the outcome is the same – freedom of conscience remains an unprotected right.

These issues aside, freedom of conscience versus required taxation remains a conflict within the United States. The Religious Freedom Peace Tax Fund Act is constructing a narrative unique among coalitions within the social justice movement. The Act's possibility to protect the religious freedom of conscientious tax objectors might stimulate further preservation of other freedoms. However, its current role as a divisive element within the conscientious tax objector movement may be a catalyst for further divisions within the social justice movement as a whole. Ultimately, the legacy of enacting the Religious Freedom Peace Tax Fund Act will rest on its ability to stand up to

the scrutiny of empirical evidence. That will have to wait for the book to be written. Stay tuned.

APPENDIX A

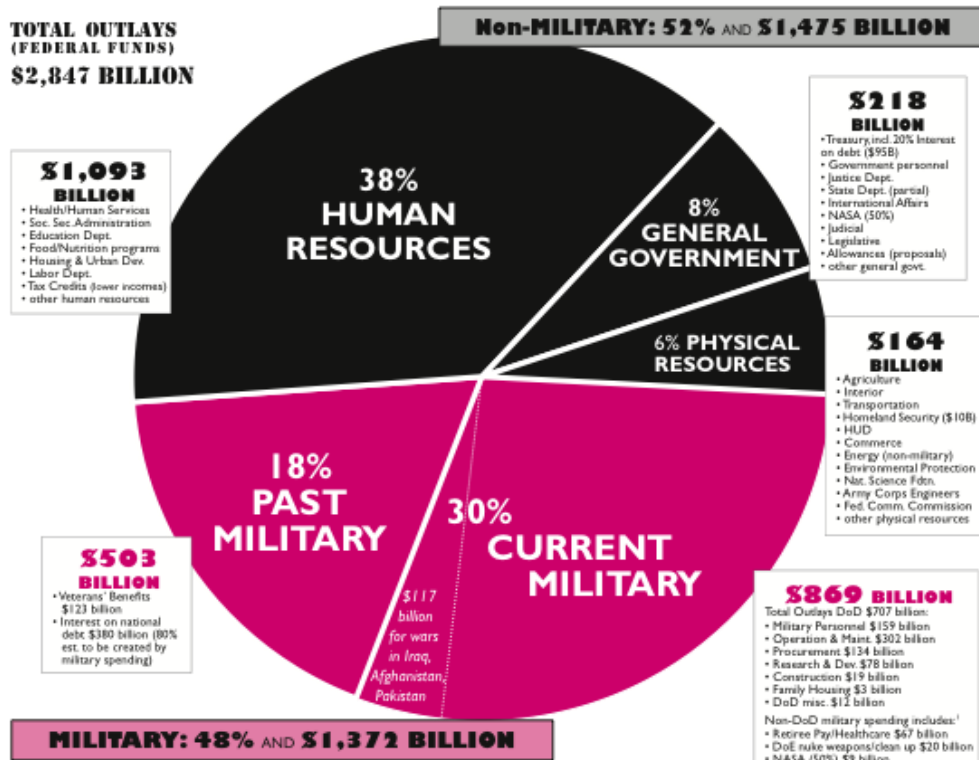
WAR RESISTERS LEAGUE'S U.S. FEDERAL BUDGET

PIE CHART, 2012 FISCAL YEAR

WHERE YOUR INCOME TAX MONEY REALLY GOES

U.S. FEDERAL BUDGET 2012 FISCAL YEAR

TOTAL OUTLAYS (FEDERAL FUNDS)
\$2,847 BILLION



HOW THESE FIGURES WERE DETERMINED

“Current military” includes Dept. of Defense (\$707 billion) and the military portion from other departments as noted in current military box above (\$162 billion). “Past military” represents veterans’ benefits plus 80% of the interest on the debt.* For further explanation, please go to www.warresisters.org.

These figures are from an analysis of detailed tables in the *Analytical Perspectives* book of the *Budget of the United States Government, Fiscal Year 2012*. The figures are federal funds, which do not include trust funds — such as Social Security — that are raised and spent separately from income taxes. What you pay (or don’t pay) by April 18, 2011, goes to the federal funds portion of the budget. The government practice of combining Trust and Federal funds began during the Vietnam War, thus making the human needs portion of the

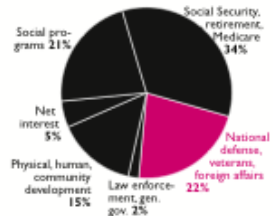
budget seem larger and the military portion smaller.

*Analysts differ on how much of the debt stems from the military; other groups estimate 50% to 60%. We use 80% because we believe if there had been no military spending most (if not all) of the national debt would have been eliminated.

The Government's Deception

The pie chart (right) is the government view of the budget. This is a distortion of how our income tax dollars are spent because it includes Trust Funds (e.g., Social Security), and the expenses of past military spending are not distinguished from nonmilitary spending. For a more accurate representation of how your Federal income tax dollar is really spent, see the large graph.

Source: 1040 Forms and Instructions 2011, Federal Budget for FY 2009



APPENDIX B

THE RELIGIOUS FREEDOM PEACE TAX FUND ACT

I

112TH CONGRESS
1ST SESSION

H. R. 1191

To affirm the religious freedom of taxpayers who are conscientiously opposed to participation in war, to provide that the income, estate, or gift tax payments of such taxpayers be used for nonmilitary purposes, to create the Religious Freedom Peace Tax Fund to receive such tax payments, to improve revenue collection, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2011

Mr. LEWIS of Georgia (for himself, Mr. JACKSON of Illinois, Mr. GRIJALVA, Ms. WOOLSEY, Mr. STARK, and Mr. HOLT) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To affirm the religious freedom of taxpayers who are conscientiously opposed to participation in war, to provide that the income, estate, or gift tax payments of such taxpayers be used for nonmilitary purposes, to create the Religious Freedom Peace Tax Fund to receive such tax payments, to improve revenue collection, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Religious Freedom
3 Peace Tax Fund Act of 2011”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) The free exercise of religion is an inalien-
7 able right, protected by the First Amendment of the
8 United States Constitution.

9 (2) Congress reaffirmed this right in the Reli-
10 gious Freedom Restoration Act of 1993, as amended
11 in 1998, which prohibits the Federal Government
12 from imposing a substantial burden on the free exer-
13 cise of religion unless it demonstrates that a compel-
14 ling government interest is achieved by the least re-
15 strictive means.

16 (3) Many people immigrated to America (in-
17 cluding members of the Quaker, Mennonite, and
18 Church of the Brethren faiths) to escape persecution
19 for their refusal to participate in warfare, yet during
20 the First World War hundreds of conscientious ob-
21 jectors were imprisoned in America for their beliefs.
22 Some died while incarcerated as a result of mistreat-
23 ment.

24 (4) During the Second World War, “alternative
25 civilian service” was established in lieu of military
26 service, by the Selective Training and Service Act of

•HR 1191 IH

1 1940, to accommodate a wide spectrum of religious
2 beliefs and practices. Subsequent case law also has
3 expanded these exemptions, and has described this
4 policy as one of “. . . long standing tradition in this
5 country . . .” affording “the important value of rec-
6 onciling individuality of belief with practical exigen-
7 cies whenever possible. It dates back to colonial
8 times and has been perpetuated in State and Fed-
9 eral conscription statutes,” and “has roots deeply
10 embedded in history.” (Welsh v. United States,
11 1970, Justice Harlan concurring). During and since
12 the Second World War thousands of conscientious
13 objectors provided essential staff for mental hos-
14 pitals and volunteered as human test subjects for ar-
15 duous medical experiments, and provided other serv-
16 ice for the national health, safety and interest.

17 (5) Conscientious objectors have sought alter-
18 native service for their tax payments since that time.
19 They request legal relief from government seizure of
20 their homes, livestock, automobiles, and other prop-
21 erty; and from having bank accounts attached,
22 wages garnished, fines imposed, and imprisonment
23 threatened, to compel them to violate their personal
24 and religious convictions.

1 (6) Conscientious objection to participation in
2 war in any form based upon moral, ethical, or reli-
3 gious beliefs is recognized in Federal law, with provi-
4 sion for alternative service; but no such provision ex-
5 ists for taxpayers who are conscientious objectors
6 and who are compelled to participate in war through
7 the payment of taxes to support military activities.

8 (7) The Joint Committee on Taxation has cer-
9 tified that a tax trust fund, providing for conseien-
10 tious objector taxpayers to pay their full taxes for
11 non-military purposes, would increase Federal reve-
12 nues.

13 **SEC. 3. DEFINITIONS.**

14 (a) DESIGNATED CONSCIENTIOUS OBJECTOR.—For
15 purposes of this Act, the term “designated conscientious
16 objector” means a taxpayer who is opposed to participa-
17 tion in war in any form based upon the taxpayer’s sin-
18 cerely held moral, ethical, or religious beliefs or training
19 (within the meaning of the Military Selective Service Act
20 (50 U.S.C. App. 456(j))), and who has certified these be-
21 liefs in writing to the Secretary of the Treasury in such
22 form and manner as the Secretary provides.

23 (b) MILITARY PURPOSE.—For purposes of this Act,
24 the term “military purpose” means any activity or pro-
25 gram which any agency of the Government conducts, ad-

1 ministers, or sponsors and which effects an augmentation
2 of military forces or of defensive and offensive intelligence
3 activities, or enhances the capability of any person or na-
4 tion to wage war, including the appropriation of funds by
5 the United States for—

6 (1) the Department of Defense;

7 (2) the intelligence community (as defined in
8 section 3(4) of the National Security Act of 1947
9 (50 U.S.C. 104a(4)));

10 (3) the Selective Service System;

11 (4) activities of the Department of Energy that
12 have a military purpose;

13 (5) activities of the National Aeronautics and
14 Space Administration that have a military purpose;

15 (6) foreign military aid; and

16 (7) the training, supplying, or maintaining of
17 military personnel, or the manufacture, construction,
18 maintenance, or development of military weapons,
19 installations, or strategies.

20 **SEC. 4. RELIGIOUS FREEDOM PEACE TAX FUND.**

21 (a) ESTABLISHMENT.—The Secretary of the Treas-
22 ury shall establish an account in the Treasury of the
23 United States to be known as the “Religious Freedom
24 Peace Tax Fund”, for the deposit of income, gift, and es-
25 tate taxes paid by or on behalf of taxpayers who are des-

1 ignated conscientious objectors. The method of deposit
2 shall be prescribed by the Secretary of the Treasury in
3 a manner that minimizes the cost to the Treasury and
4 does not impose an undue burden on such taxpayers.

5 (b) USE OF RELIGIOUS FREEDOM PEACE TAX
6 FUND.—Monies deposited in the Religious Freedom Peace
7 Tax Fund shall be allocated annually to any appropriation
8 not for a military purpose.

9 (c) REPORT.—The Secretary of the Treasury shall re-
10 port to the Committees on Appropriations of the House
11 of Representatives and the Senate each year on the total
12 amount transferred into the Religious Freedom Peace Tax
13 Fund during the preceding fiscal year and the purposes
14 for which such amount was allocated in such preceding
15 fiscal year. Such report shall be printed in the Congres-
16 sional Record upon receipt by the Committees. The pri-
17 vacy of individuals using the Fund shall be protected.

18 (d) SENSE OF CONGRESS.—It is the sense of Con-
19 gress that any increase in revenue to the Treasury result-
20 ing from the creation of the Religious Freedom Peace Tax
21 Fund shall be allocated in a manner consistent with the
22 purposes of the Fund.

○

APPENDIX C

HANG UP ON WAR CARDS



Excise Taxes Help Pay for War

The amount of Federal Tax on this bill, \$ _____, has been deducted from my payment because I refuse to pay for war. Please credit my bill as the FCC requires and report this amount to the IRS. My telephone or customer number is _____

About half of federal taxes, like this one, are devoted to military-related purposes while millions of people in the U.S. and abroad lack adequate food, shelter and health care.

I resist this tax to protest the use of my tax dollars for killing instead of protecting and caring for life. Please join me and the many others who have decided to oppose our massive military spending by refusing to pay some or all of the taxes that finance it.

Sincerely,

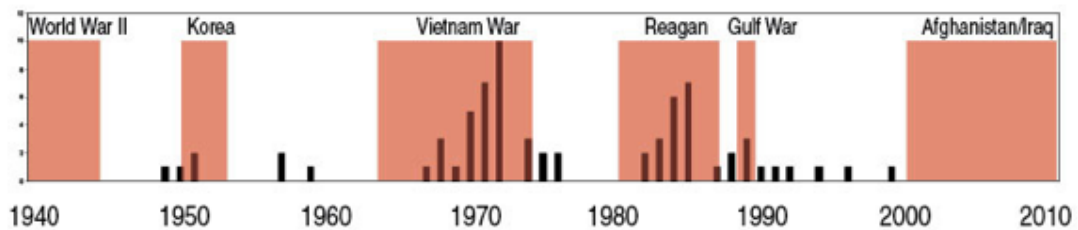
Date:

For more information on telephone war tax resistance, see www.hanguponwar.org
War Resisters League, 339 Lafayette St., New York, NY 10012 • www.warresisters.org

APPENDIX D

IRS PROPERTY SEIZURES AGAINST CONSCIENTIOUS TAX OBJECTORS

The shortest column represents one person (or family) and the tallest is ten people (or families) who had property seized by the IRS for refusing to pay war taxes. The year is when the property was seized, though an auction may have happened in a subsequent year. (Data is as of Feb. 2012.)



SOURCES: The Peacemaker, Peacemakers, 1949–1992; Handbook on the Nonpayment of War Taxes, Peacemakers, 1983; Tax Talk, National War Tax Resistance, 1969–1975; Center Peace, Center on Law & Pacifism, 1981–1985; Conscience, Conscience and Military Tax Campaign, 1982–1994; Network News, 1984–1994, NWTRCC; More Than a Paycheck, 1994 to present, NWTRCC

(NWTRCC, 2012)

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