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@Adoption of prisoners of conscience Manuel Blázquez Solís and José Antonio Escalada - conscientious objectors to compulsory military service.

Manuel Blázquez Solís and José Antonio Escalada were arrested on the orders of a military tribunal on 4 and 27 December 1995 respectively and imprisoned in Barcelona to serve sentences of 17 months' imprisonment on charges of desertion from the armed forces. Amnesty International believes they are imprisoned as a result of their refusal to perform military service on genuine grounds of conscience developed after joining the armed forces. The organization is calling for their immediate release as prisoners of conscience.

Amnesty International first adopted naval conscripts Manuel Blázquez and José Antonio Escalada as prisoners of conscience during a period of three months' pre-trial detention in 1991.

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Manuel Blázquez and José Antonio Escalada, both from the Barcelona area, commenced their military service in the Spanish navy as 19-year-old conscripts in September 1990. During January 1991 they were based in the port of Cartagena, serving on the naval corvettes '*Vencedora*' and '*Infanta Elena*' respectively. These ships were scheduled to relieve the three Spanish vessels already in the Gulf zone at that time. On 15 January 1991, the date of the United Nations deadline for Iraq to withdraw from Kuwait, José Antonio Escalada left the naval base. The '*Infanta Elena*' sailed for the Gulf zone on 22 January. On 21 January Manuel Blázquez Solís failed to report to his post on board the '*Vencedora*', which also sailed for the Gulf zone on the morning of 22 January. After leaving their vessels, both conscripts contacted various pacifist and anti-militarist groups and went into hiding in Barcelona. Arrest warrants were issued in their names on suspected offences of desertion, a military offence then carrying a penalty of between three months and a day and two years' imprisonment.

Manuel Blázquez and José Antonio Escalada submitted formal applications, on 21 January and 20 February respectively, to be recognized as conscientious objectors to military service. They informed the *Consejo Nacional de Objeción de Conciencia* (CNOOC), National Council on Conscientious Objection, the authorized decision-making body, that their objection was based on moral and philosophical grounds. Their applications were unsuccessful as, under Spanish law, the right to conscientious objection to military service may only be exercised "until the moment of incorporation into the armed forces".

On 2 April 1991, at a joint press conference held at the Barcelona church which was sheltering them, they declared that "the only thing we have done by deserting is to exercise the right to freedom of conscience..." ("*lo único que hemos hecho al desertar es ejercer el derecho a la libertad de conciencia...*"). They also announced their intention of voluntarily presenting themselves to the military authorities on 4 April to resolve their legal position and demonstrate openly that they were not ashamed of their actions.

On 4 April they held another brief press conference at the Barcelona church and explained that they had left their vessels and military service because they did not want to take part in "widespread killing" ("*una matanza*"). Both indicated their pacifist objections to performing any further military service. They then proceeded to the offices of the military governor in Barcelona, accompanied by their lawyer, and were arrested there.

They were immediately transferred to Santa Lucia Naval Prison in Cartagena pending trial for desertion. As a result of their refusal to wear military uniform they were not allowed to mix with other prisoners until the beginning of June.

On 3 July 1991 José Antonio Escalada and Manuel Blázquez were brought before the military authorities in Cartagena and, according to the reports received by Amnesty International, were asked if they were now willing to complete their military service: if so, they would be escorted back to their ships. However, both repeated their refusal to perform any further military service and were informed that, in this case, as they had already been imprisoned for three months and a day, - that is, the length of the minimum sentence applicable for the offence of desertion at that time - orders for their release into provisional liberty, pending trial, would be issued. They were released later that day but ordered to report to the military authorities every 14 days.

They returned to their families in Barcelona but on 8 July 1991 were informed that the military authorities in Cartagena had issued **new** arrest warrants against them, for new offences of desertion and both began to live in clandestinity. José Antonio Escalada was arrested during a routine identity check and imprisoned between 18 June and 23 July 1992 on the new arrest warrant. However, following a Constitutional Court ruling of July 1992 both José Antonio Escalada and Manuel Blázquez apparently lived openly in provisional liberty pending trial.

In June 1994 a military tribunal in Cartagena sentenced both Manuel Blázquez and José Antonio Escalada to 17 months' imprisonment on the first charge of desertion and to five months' and three months' imprisonment respectively on the second charge. Both remained at liberty pending the outcome of appeals to the Supreme Court.

On 29 March 1995 the Supreme Court confirmed both sentences of 17 months' imprisonment on the first charge of desertion but on 4 April 1995 annulled the sentences imposed on the second charge.

Both Manuel Blázquez and José Antonio Escalada lodged appeals with the Constitutional Court in April 1995 and both remained at liberty until December 1995, when they were rearrested by order of the military tribunal in Cartagena which had sentenced them in June 1994. The Constitutional Court has not yet ruled on the appeals lodged by Manuel Blázquez and José Antonio Escalada.

Following his arrest on 4 December 1995 Manuel Blázquez was initially imprisoned in La Modelo Prison, Barcelona, but transferred to Alcalá de Henares Military Prison in Madrid on 14 December 1995. He was returned to La Modelo Prison, Barcelona, on 30 December where José Antonio Escalada is also currently detained. In mid-January 1996 the Catalan prison authorities granted both the right to serve their sentences in a form of semi-detention (*tercer grado penitenciario*) which requires them to spend weekday nights in prison but allows them to spend weekends and other daytime hours at liberty.

Amnesty International is calling again for the release of Manuel Blázquez Solís and José Antonio Escalada and also renewing its appeals for Spain to introduce legislation allowing the right to claim conscientious objector status during military service.

AMNESTY INTERNATIONAL'S CONCERN

Amnesty International does not take a position on the merits or otherwise of war or particular wars. However, basing its position on international standards, Amnesty International recognizes the right of all persons to refuse to bear arms on grounds of conscience. This right extends to those objecting to participation in a **particular** war as well as to those opposing **all** wars.

Resolution 1993/84 on Conscientious Objection to Military Service, adopted by the United Nations Commission on Human Rights in March 1993 affirms, in point 2: "that persons performing compulsory military service should not be excluded from the right to have conscientious objections to military service".

Recommendation No R (87) 8 adopted by the Committee of Ministers of the Council of Europe on 9 April 1987 in section B. paragraph 8 states: "The law may also provide for the possibility of applying for and obtaining conscientious objector status in cases where the requisite conditions for conscientious objection appear during military service or periods of military training after initial service.

The Council of Europe's Explanatory Report to the Recommendation states, with reference to Section B.8:

"To prescribe an absolute time-limit in the rules to which applications are subject could be considered as contrary to the very purpose of the Recommendation. If refusal to perform military service is acknowledged as being based on a conflict of conscience, it follows that this conflict might occur at any moment in a person's life. Indeed there is nothing to prevent this type of conflict arising during military service".

However, under Article 1.3 of Law 48/1984 'regulating Conscientious Objection and Alternative Civilian Service' in Spain, the right to conscientious objection may only be exercised **until the moment of incorporation** into the armed forces ("*El derecho a la objeción de conciencia podrá ejercerse hasta el momento en que se produzca la incorporación en filas...*").

Any application for conscientious objector status submitted after joining the armed forces is normally automatically rejected, whatever the grounds of objection. However, Amnesty International believes that conscientious objectors to military service are exercising their fundamental human right to freedom of conscience and that they should, therefore, have the right to claim conscientious objector status **at any time**, both up to and after incorporation into the armed forces.

Amnesty International considers that conscientious objectors, like José Antonio Escalada and Manuel Blázquez, who are denied this right and imprisoned as a consequence are prisoners of conscience.