

EXTERNAL

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To: Medical professionals
From: Medical Office / Americas Regional Program
Date: 25 March 1996

MEDICAL LETTER WRITING ACTION

**Drs Nery Fermín MEDINA QUISPE and
Fortunato Graciano SUMINA TACO**

PERU

Keywords

Theme: POCs

Profession/association: Doctors

Summary

Amnesty International is appealing for the immediate and unconditional release of two Peruvian doctors serving prison terms of 22 years, imposed under Peru's anti-terrorism legislation. AI believes them to have been wrongfully sentenced and imprisoned and has adopted them as prisoners of conscience. Please see the details attached.

Recommended Actions

1) Letters are requested from medical professionals to the addresses below:

- raising the cases of Dr Nery Fermín MEDINA QUISPE and Dr Fortunato Graciano SUMINA TACO who were arrested in September 1992 and who are currently imprisoned in Socabaya prison, Arequipa province
- stating that you believe there to be no evidence to suggest that either of the doctors had links with armed groups and expressing concern that they were convicted and sentenced solely on the basis of statements made by *arrepentidos* (repentents) at a time when the *Ley de Arrepentimiento* was still in force
- expressing concern that they remain in prison when there is no credible evidence to substantiate the charges against them and asking on what basis they were sentenced
- noting that both men were respected members of their community who have received much support for review of their cases
- noting that there is a petition for review of the cases before the Supreme Court of Justice
- urging their immediate and unconditional release from prison

Addresses*Minister of Justice*

Sr. Carlos Hermoza Moya
 Ministro de Justicia
 Ministerio de Justicia
 Scipion Llona 350
 San Isidro, Lima
 Peru

Minister of Public Health

Dr. Eduardo Young Motta
 Ministro de Salud Pública
 Ministerio de Salud Pública
 Avenida Salaverry Cuadra 7
 PO Jesús María
 Lima 11
 Peru

President

Presidente Alberto Fujimori
 Presidente de la República del Perú
 Palacio de Gobierno
 Plaza de Armas
 Lima 1
 Peru

Copies to:

Federación Médica Peruana
 Dr. Max Cárdenas, Presidente
 Jr. Almirante Guisse 2165
 Lince
 Lima, Peru
 Fax: +51 14 705036

and to diplomatic representatives of Peru in your country.

2) Please send the details of this case to your national Medical Association with a request that they write on behalf of Dr Medina Quispe and Dr Sumina Taco. You could send copies of some of your letters to:

World Medical Association
 avenue des Alpes 28
 F-01210 Ferney-Voltaire
 France

3) Please try to get publicity for the cases via articles in the medical press. Such articles could invite appeals from readers. If you do have an article published, please send a copy to the IS Medical Office and to:

Federación Médica Peruana
 Dr. Max Cárdenas Díaz, Presidente
 Jr. Almirante Guisse 2165
 Lince
 Lima
 Fax: +51 14 705036

Colegio Médico de Perú
 Malecón Armendáriz no.791
 Miraflores
 Lima
 Peru
 Fax: +51 14 474930

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Date: 25 March 1996

<p style="text-align: center;"><i>MEDICAL CONCERN</i></p> <p style="text-align: center;">Drs Nery Fermín MEDINA QUISPE and Fortunato Graciano SUMINA TACO</p> <p style="text-align: center;">PERU</p>

Amnesty International is calling for the release of two Peruvian doctors—Nery Fermín Medina Quispe and Fortunato Graciano Sumina Taco—who have been imprisoned since September 1992 and who were convicted under anti-terrorism legislation. Amnesty International believes the charges against them to be groundless and has adopted both doctors as prisoners of conscience.

Both men are in their forties. Dr Medina is a paediatrician and worked at Camaná public hospital in Arequipa province. He was director of the hospital in 1985, *Director de la Unidad Territorial* of Camaná in 1990-1991 and a leader of the *Izquierda Unida*, a legally-registered coalition of left-wing Parliamentary parties. Dr Sumina was an internist and surgeon at the same hospital and was also an active member of the *Izquierda Unida*. They were both arrested at the hospital in early September 1992 by members of DINCOTE, the anti-terrorism branch of the police—Dr Medina on 7 September and Dr Sumina on 8 September. The arrests appear to have been motivated by accusations made against them by individuals detained for links with the armed opposition, the *Partido Comunista de Perú (Sendero Luminoso)* PCP, Communist Party of Peru (Shining Path).

Although there is no credible evidence that either of the doctors had links with any armed group, they have nonetheless twice been jointly charged, convicted and sentenced for terrorism-related crimes in two separate trials. In the first case brought against them they were accused of having given medical attention to members of the armed opposition and of having collaborated with *Socorro Popular*, a welfare organization attached to the PCP. In the second case, the same accusations stood and they were also accused of being leaders of the *Socorro Popular*, again on the verbal evidence of a member of the armed opposition. They were sentenced to 20 years' imprisonment following the first trial and to 22 years following the second.

The charges against them were based solely on accusations made by two men under investigation for PCP links. It is believed that these men made false accusations in order to benefit from Peru's *Ley de Arrepentimiento* ('Repentance Law') which had been introduced in May 1992 as part of a series of anti-terrorism measures. This law provided for the exemption from prosecution of those charged with terrorism or for commutation of their sentences in exchange for the provision of information leading to the arrest of other alleged PCP members. The law is believed to have been widely abused and was criticized by independent human rights organizations for allowing uncorroborated evidence to be used in courts. It was abolished in November 1994. At least 5000 people have been charged, convicted and sentenced for

terrorism-related offences since Peru's anti-terrorism legislation came into effect. AI believes that these laws render all terrorism-related trials unfair. In addition the organization believes that the anti-terrorism laws provide a framework for the imprisonment of prisoners of conscience and possible prisoners of conscience (see *Reforms of Anti-terrorism laws fail to match international human rights standards*, AMR 46/06/95, October 1995). By the middle of March 1996, human rights organizations claimed that at least 1,000 people had been falsely accused of such crimes; AI believes many of them could be prisoners of conscience.

The case of these two doctors is particularly unusual in that they were convicted despite the fact that the suspected PCP members who made the allegations subsequently retracted them, saying that they had been forced to make them under torture. On retracting their statements, both men said that they had never met either of the doctors. One of the PCP members involved, however, later reverted to his initial allegation, adding this time that the doctors had not only collaborated with the *Socorro Popular*, but were among the leaders of the organization. On the basis of this repeat allegation, a second lawsuit was brought against Drs Medina and Sumina.

The *Izquierda Unida*, the political coalition in which the doctors were both active, has publicly rejected the ideology and activities of the PCP. As a result, its members have consistently been targeted by PCP members with threats and killings.

Drs Medina and Sumina were initially sentenced in April 1993 in the first trial to 20 years' imprisonment. There was considerable support for them and several local dignitaries, including the Bishop of Chuquibamba, wrote character references and letters of support on their behalf to the President of the Supreme Court. (See appendices). The Peruvian Medical Association has also been acting on their behalf and has called for their release. In October 1994 the Supreme Court of Justice overturned the 20 year sentence and sent the case back to Arequipa High Court for re-trial. In the meantime, however, the doctors had been sentenced to 22 years' imprisonment in the second trial and this sentence had been ratified by the Supreme Court. The Arequipa High Court therefore decided that there was no need to re-hear the evidence in the first case as the charges were the same, and the 22-year sentence stood.

Drs Medina and Sumina are therefore currently in a situation whereby they have been sentenced after twice being tried on the same charges, one conviction having been overturned by the Supreme Court and the other upheld. The trial of an accused *twice* on the same charge is contrary to the judicial principle that no-one should be tried more than once on any particular charge.

The cases of Drs Medina and Sumina are being acted upon by the *Asociación Pro Derechos Humanos* (APRODEH), a national human rights organization which defends only those cases in which it is certain that the individuals concerned do not have links to the armed opposition. Their case has also been adopted by the *Coordinadora Nacional de Derechos Humanos* (CNDDHH), an umbrella-body linking 47 independent human rights groups. In Peru's highly-charged political climate where the PCP has been conducting an armed campaign against the Peruvian state since 1980, the CNDDHH similarly acts only on those cases where representatives from its constituent associations agree unanimously that the prisoner has no links with the armed opposition.

A *Recurso de revisión*, a petition to review the case, has been filed before the Supreme Court of Justice.

Amnesty International believes that there is no evidence whatsoever that Dr Medina or Dr Sumina had links with the PCP. It believes them to have been unjustly and wrongfully

imprisoned and is calling for their immediate and unconditional release as prisoners of conscience.

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There have been several other doctors imprisoned in Peru under the same anti-terrorism legislation, accused of having provided medical treatment to members of the armed opposition. This provoked concern among international human rights and medical organizations. The American Association for the Advancement of Science (AAAS) for example, sent a delegation to Peru in April 1993 to investigate the situation of Peruvian doctors (see AAAS: *Report on Science and Human Rights*, XV (1), 1994, pp.2-3.). At the request of the Peruvian Medical Association, Dr Ian Field, Secretary-General of the World Medical Association and Dr Anders Milton, Secretary-General of the Swedish Medical Association and WMA Council delegate, visited Peru in November and December 1994. The WMA delegation met with ministers, members of the judiciary, members of the medical profession and human rights representatives, among others and raised the cases of 24 doctors (see *World Medical Journal*, 41(5):69-71). Most of these have been released after varying periods of detention.

International codes of medical ethics underline the fact that a doctor's priority should be to his patients at all times, including in times of armed conflict, and that s/he should perform their duty "without consideration of sex, race, nationality, religion, political affiliation or any other similar criterion". Please see the WMA's Regulations in Time of Armed Conflict given in appendix iii.

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The following letters of support are given by way of illustration. Amnesty International also has letters supporting a review of the case against Drs Medina and Sumina from Camaná's Mayor, the Deputy Mayor, the Deputy Prefect, another Justice of the Peace, the Presidents of social welfare organizations and the heads of medical bodies.

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ORIGINAL SPANISH - SEE OVERLEAF FOR TRANSLATION

UNOFFICIAL TRANSLATION

Chuquibamba Prelature

Apartado 55 - Tlf 281 y 233
Camana (Arequipa)
Peru

I the undersigned, Bishop of Chuquibamba, based at Camaná,

Do declare that I know Dr Neri Medina Quispe, a doctor at Camaná public hospital who was for a time its director, and do declare

That I have always observed him to be of dignified and honest conduct, both in his personal and professional life, and have heard the same of him from others.

That I am aware that he has been confined to Arequipa prison and sentenced to 22 years on terrorist charges and that this sentence has come before the Supreme Court of the Republic,

That I believe the charges against him to be accusations made by third parties with a view to personal vengeance.

Taking all the above into consideration, I appeal for a review of the case against Dr Neri Medina Quispe and for a lifting of the charges.

Attested in soul and conscience and signed at Camaná on 10 November 1993.

Felipe María Zalba
Bishop

ORIGINAL SPANISH - TRANSLATION BELOW

UNOFFICIAL TRANSLATION

I the undersigned, Justice of the Peace in the territory of Camaná

HEREBY CERTIFY:

That I know Dr Fortunato Sumina Taco, a doctor at Camaná public hospital and that at all times and in all instances he has proved to be of good conduct as a professional who has worked at the service of the community of Camaná and that, for this, he has earned praise and recognition.

Knowing that he is currently being prosecuted, accused of terrorism, I wish to apply to your high offices as President of the Supreme Court for the case against the above-named doctor be reviewed.

Issued for whatever purposes this may serve.

Camaná, 12 November 1993.

World Medical Association's Regulations in Time of Armed Conflict

The following regulations set out the WMA's standards on the medical ethical position of the physician during a period of war or other armed conflict. The statement was first approved by the 10th World Medical Assembly in Havana in 1956, was edited by the 11th Assembly meeting in Istanbul the following year and amended by the 35th World Medical Assembly in 1983.

The amended text reads as follows:

Regulations in Time of Armed Conflict

1. Medical ethics in time of armed conflict is identical to medical ethics in time of peace, as established in the International Code of Medical Ethics of the World Medical Association. The primary obligation of the physician is his professional duty; in performing his professional duty, the physician's supreme guide is his conscience.
2. The primary task of the medical profession is to preserve health and save life. Hence it is deemed unethical for physicians to:
 - A. Give advice or perform prophylactic, diagnostic or therapeutic procedures that are not justifiable in the patient's interest.
 - B. Weaken the physical or mental strength of a human being without therapeutic justification.
 - C. Employ scientific knowledge to imperil health or destroy life.
3. Human experimentation in time of armed conflict is governed by the same code as in time of peace; it is strictly forbidden on all persons deprived of their liberty, especially civilian and military prisoners and the population of occupied countries.
4. In emergencies, the physician must always give the required care impartially and without consideration of sex, race, nationality, religion, political affiliation or any other similar criterion. Such medical assistance must be continued for as long as necessary and practicable.
5. Medical confidentiality must be preserved by the physician in the practice of his profession.
6. Privileges and facilities afforded the physician must never be used for other than professional purposes.

Rules governing the care of sick and wounded, particularly in time of conflict

- A.1. Under all circumstances, every person, military or civilian, must receive promptly the care he needs without consideration of sex, race, nationality, religion, political affiliation or any other similar criterion.
2. Any procedure detrimental to the health, physical or mental integrity of a human being is forbidden unless therapeutically justifiable.
- B.1. In emergencies, physicians and associated medical personnel are required to render immediate service to the best of their ability. No distinction shall be made between patients except those justified by medical urgency.
2. The members of medical and auxiliary professions must be granted the protection needed to carry out their professional activities freely. The assistance necessary should be given to them in fulfilling their responsibilities. Free passage should be granted whenever their assistance is required. They should be afforded complete professional independence.
3. The fulfilment of medical duties and responsibilities shall in no circumstance be considered an offence. The physician must never be prosecuted for observing professional secrecy.
4. In fulfilling their professional duties, the medical and auxiliary professions will be identified by the distinctive emblem of a red serpent and staff on a white field. The use of this emblem is governed by special regulation.

