

EXTERNAL (for general distribution)

AI Index: AMR 22/08/92

Distr: UA/SC

UA 195/92

Death Penalty

11 June 1992

CHILE: Juan Domingo SALVO ZUÑIGA, peasant

Juan Domingo Salvo Zúñiga, 46, a Chilean peasant, was sentenced to death by an Appeals Court in April 1992. He was convicted for the murders of Antonia del Carmen Cabrera Gómez and her three children: Jessica Cecilia, 8; Joaquín Mauricio, 5, and Guadalupe del Carmen, 3. According to reports Juan Domingo Salvo was under the effects of alcohol when he entered the home of the victims and killed them with an axe, on 25 November 1990. Juan Domingo Salvo was arrested after he tried to escape the police. On 30 November 1991 he was sentenced four times to life imprisonment by the criminal court of the town of Vicuña. The judge in charge then transferred the case to the Court of Appeals in La Serena - a mandatory procedure according to Chilean law - recommending that the sentences be merged into one. The Court resolved instead to increase the sentences, and on 21 April 1992 sentenced Juan Domingo Salvo to death. The Courts's ruling was based upon the consideration of "... the extraordinary seriousness of the crime, perpetrated against several victims - three of whom where of young age - and the extremely dangerous nature of the defendant, who had been condemned for the murder of his sister in the past", "... la extraordinaria gravedad del delito, la corta edad de tres de las víctimas y la alta peligrosidad del reo, el cual ya antes fué sancionado por el delito de homicidio de una hermana". On 3 May, the Court of Appeals informed the Ministry of Justice of its decision, but reportedly failed to complete a mandatory procedure whereby the defendant is officially informed of the sentence which modifies a previous ruling. Based on this procedural irregularity, the defence lawyer presented a request of annulment, *incidente de nulidad*, of the death sentence. The appeal was rejected by the Court of Appeals on 20 May 1992.

The decision was then appealed by Juan Salvo's lawyer before the Supreme Court on 27 May 1992. The appeal, *recurso de queja*, was based on the same alleged procedural irregularities that had given rise to the *incidente de nulidad* presented before the Appeals Court of La Serena. Whatever the decision of the Supreme Court it is not entitled to rule against the death sentence. It can only rule on the alleged procedural irregularity and, at most, order the completion of procedural formalities before the confirmation of the death sentence. It is not known how long it will take for the court to rule on the appeal but, if the death sentence is confirmed, the execution should take place three days later by firing squad. During this period, the defendant may submit a request for clemency to the President. Patricio Aylwin, the Chilean President has repeatedly made public his opposition to the death penalty and has promised to use his discretionary power to grant clemency in death penalty cases which come before him.

BACKGROUND INFORMATION:

If carried out, Juan Domingo Salvo Zúñiga's execution will be the first in Chile since the elected civilian government of Patricio Aylwin took power in March 1990. Although many people were summarily executed during the first years of General Augusto

Pinochet's government, no death sentences were passed by the ordinary courts between 11 September 1973 and 1980. During the next decade four former members of the security forces were executed for common crimes, two in 1982 and two in January 1985. Between 1984 and 1988, death sentences were recommended by the prosecutor in the cases of 15 political prisoners, mostly accused of participating in the killing of police or military officers. Of these, four were sentenced to death in the first instance but their sentences were commuted to life imprisonment on appeal.

Page 2 of UA 195/92

The new government which took power in 1990 introduced proposals for legal reforms, including the abolition of the death penalty. This was rejected by Congress in December 1990. In January 1992 the Senate introduced a proposal for the extension of the scope of the death penalty in cases of murder of off-duty *carabineros*, uniformed police. At the time of writing the proposal is under discussion in Congress. Amnesty International, which has repeatedly called on the Chilean authorities to abolish the death penalty is deeply concerned that, whatever the Supreme Court's decision, Juan Domingo Salvo Zúñiga's death sentence will proceed according to Chilean law, unless clemency is granted by the President. Amnesty International opposes the death penalty in all cases as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment, as proclaimed in the Universal Declaration of Human Rights.

RECOMMENDED ACTION: Please send telegrams/telexes/faxes/airmail letters:

- welcoming President Patricio Aylwin's opposition to the death penalty and respectfully requesting that he exercise his power of clemency and commutes the death sentence against Juan Domingo Salvo Zúñiga;
- stating Amnesty International's total opposition to the death penalty;
- calling for the total abolition of the death penalty in Chile in line with the worldwide trend (over 40 per cent of all countries have now abolished the death in law or in practice), stating that abolition would ensure long-term respect for the human rights of Chilean citizens which the death penalty clearly violates.

APPEALS TO:

President:

Sr. Patricio Aylwin Azócar
Presidente de la República de Chile
Palacio de la Moneda
Santiago, Chile

Salutation: Excelencia / Your Excellency

Telegrams: Presidente Azocar, Santiago, Chile

Telexes: 240152 segrg cl

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COPIES OF YOUR APPEALS TO:

1. Minister of Justice:

Sr. Francisco Cumplido Cereceda
Ministro de Justicia
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Chile

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2. President of the Supreme Court:

Sr. Enrique Correa Labra
Presidente
Corte Suprema de Justicia
Plaza montt Varas
Santiago
Chile

3. President of the Senate's Commission on Human Rights, Nationality and

Citizenship:

Sr. Ricardo Martín Díaz
Presidente
Comisión de Derechos Humanos,
Nacionalidad y Ciudadanía
Cámara de Senadores edificio del
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4. Weekly magazine:

Sr. Editor
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5. Daily newspaper:

Sr. Editor
La Nación
Agustinas 1269
Santiago, Chile

and to diplomatic representatives of Chile in your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 23 July 1992.