

EXTERNAL

AI Index: MDE 28/03/98

UA 14/98

Death penalty / Legal concern

16 January 1998

ALGERIA Hamid MEBARKI, prison guard

Hamid Mebarki, a prison guard, was sentenced to death by a court in Algiers on 14 January 1998 on charges of involvement in a mutiny in Serkadji prison in Algiers in February 1995 in which at least 96 detainees, four guards and one member of the security forces were killed. He was convicted of taking part in murder, illegal detention of people and causing damage to property and of having smuggled arms to the detainees.

Eight other men were sentenced to death *in absentia* on charges of having provided weapons and logistical support from the outside. Thirty-six detainees were also tried in the same trial and accused of attempted escape, destruction of other people's property, and taking prisoners as hostage. Of these, nine were sentenced to 10 years' imprisonment, two to eight years and 10 to between two and five years. Seventeen others were acquitted. All the accused detainees were detained in Serkadji Prison on charges of "terrorist activities" at the time of the mutiny.

The trial did not comply with international standards for fair trial. Key witnesses requested by the defence were not allowed to testify, including detainees who had acted as mediators between the detainees and the prison authorities during the mutiny, and detainees who had been interrogated by the examining magistrate after the mutiny and whose confessions, allegedly obtained under duress, were used by the prosecution as evidence against the defendants.

Moreover, the court disregarded the fact that some prosecution witnesses who testified at the trial contradicted or withdrew all or part of their testimonies which they had previously made to the examining magistrate and which were used as evidence against the defendants. In addition, the trial did not attempt to establish who was responsible for the death of some 96 detainees, who were killed when security forces stormed the prison after the attempted mutiny.

Hamid Mebarki may seek a review by "cassation" by the Supreme Court. "Cassation" rules only on procedures and does not re-examine facts, and therefore it does not allow for defendants to fully exercise their right of appeal. Once death sentences have been upheld by the Supreme Court, executions may not be carried out until a plea for clemency has been presented to the President of the Republic and refused.

BACKGROUND INFORMATION

Between 21 and 22 February 1995, at least 96 detainees, four guards and one member of the security forces were killed in Serkadji prison following the suppression by the security forces of a mutiny. The figure of 96 dead is the official figure given by the authorities and there have been allegations that the number of murdered detainees was higher. The detainees were killed when security forces stormed the prison and there are consistent reports and testimonies indicating that many of the detainees were deliberately extrajudicially executed by security force after order had been restored and the detainees had returned to their cells. To date no independent investigation has been carried out into the incident. A "commission of inquiry" set up at the end of March 1995 by the official human rights body, the *Observatoire national des droits de l'homme* (ONDH), not only failed to investigate the alleged extrajudicial executions of prisoners by the security forces, but actually tried to cover up existing evidence. No autopsies were conducted and most

of the victims' bodies were buried in anonymous graves before relatives or others could identify the bodies (for further details about the massacre in Serkadji Prison see "*Killings in Serkadji prison*", MDE 28/01/96, of 26 February 1996; and pages 15 to 17 of the report "*Algeria; Fear and silence: A hidden human rights crisis*", MDE 28/11/96, of November 1996).

RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in French, Arabic, English or your own language: to both appeal addresses:

- expressing concern that Hamid Mebarki has been sentenced to death, and that his trial was not conducted in full accordance with international standards for fair trial;

- stating that whilst Amnesty International recognizes the right of governments to bring to justice those responsible for killings and other acts of violence, the organization unconditionally opposes the death penalty in all cases as the ultimate form of cruel, inhuman and degrading punishment and a violation of the right to life, as proclaimed in the Universal Declaration of Human Rights;

to Minister of Justice:

- calling on the Minister to urge President Zeroual to commute the death sentence against Hamid Mebarki when the clemency plea is presented to him;

to President Zeroual:

- urging President Zeroual to commute the death sentence when the clemency plea is presented to him.

APPEALS TO:

M. Mohamed ADAMI
Ministre de la Justice
Ministère de la Justice
8 Place Bir Hakem
El-Biar, Alger, Algérie
Faxes: +213 2 922560, 925557, 796557
Telegrams: Ministre Justice, Alger, Algeria
Salutation: Monsieur le Ministre / Your Excellency

M. Liamine ZEROUAL
Président de la République
Présidence de la République
El Mouradia
Alger, Algérie
Faxes: + 213 2 60 96 18
Telegrams: President, Alger, Algeria
Salutation: Monsieur le Président / Your Excellency

COPIES TO:

M. Kamel REZZAG-BARA
President
Observatoire National des Droits de l'Homme (ONDH)
Palais du Peuple
1 Av. Franklin Roosevelt
Alger, Algérie
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and to diplomatic representatives of ALGERIA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 1 March 1998.