

ALGERIA

SIX MONTHS LATER, COVER-UP CONTINUES IN PRISON CLASH THAT LEFT 100 INMATES DEAD

**Report by Defense Lawyers Charges
Inmates Were Deliberately Massacred**

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I. INTRODUCTION

The government of Algeria is continuing to cover up how about one hundred inmates died during the suppression of a mutiny at Serkadji prison exactly six months ago. Following the February 21-22 confrontation, which was the single bloodiest incident during three years of civil strife in Algeria, authorities violated the most basic norms for investigating extrajudicial killings. The dead were buried without autopsies being conducted and without families being allowed to view the bodies. No truly independent panel was permitted to conduct an on-site investigation. To date, no specific explanations have been offered to explain how the prisoners met their deaths.

Attempting to challenge the official cover-up, a group of defense lawyers in Algiers recently issued an alarming report on Serkadji, based primarily on the testimony of prisoners collected during visits by lawyers and family members after the disturbance. The report charges that many of the inmates were deliberately massacred by the security forces that quelled the revolt. It also charges that some wounded inmates were "finished off" by the security forces, and that, after resistance ended, security forces rounded up and executed a number of detainees and tortured others. The report also charges the authorities with systematically removing and tampering with the evidence after the assault was completed, by filling in bullet holes in cell walls, attempting to silence witnesses through intimidation, and other measures.¹

The report of the ad hoc group of lawyers, which calls itself the Team of Lawyers Defending Persons Detained at Serkadji Prison (*Le collectif des avocats constitués pour défendre les personnes détenues à la prison de Serkadji*, hereafter the **Lawyers Association**),² raises grave questions that were not answered, at least publicly, by the two previous investigations, conducted by an interministerial panel and by a commission (hereafter the **National Commission**) organized by the semi-official National Human Rights Monitoring Body (*l'Observatoire National des Droits de l'Homme*, hereafter the ONDH). The findings of the former remain classified. A report issued by the latter sheds no light on how the prisoners were killed, even though the commission members enjoyed access to the prison and pertinent officials.³ And a criminal investigation reportedly opened by the office of the prosecutor has not resulted in any publicly disclosed charges against anyone involved in crushing the revolt.

¹ The report of the Lawyers Association also makes other allegations that will not be examined here. Among them, that:

- Authorities opted to use force at a moment when their talks with the rebel prisoners were about to yield an agreement on peacefully resolving the crisis; and
- In the weeks preceding the disturbance, a large number of Islamist prisoners were transferred to Serkadji from other prisons in violation of Algerian law.

With regard to the second issue, authorities said that, prior to the disturbance at Serkadji, prisoners had been transferred among facilities in the wake of escape attempts by prisoners at Berrouaghia, el-Harache, and other prisons. In the most dramatic recent escape operation, several hundred prisoners fled Tazoult prison in eastern Algeria in March 1994 when an Islamist commando unit, aided by members of the prison staff, raided the facility.

² The Association is composed of some forty lawyers, including Mohamed Tahri, Mahmoud Khelili, and Rachid Mesli, along with relatives of persons imprisoned at Serkadji.

A working copy of the Association's untitled report was obtained by Human Rights Watch. The compilers of the report have characterized it as a work in progress: when new facts or testimonies are collected, they are incorporated into the text. This open-ended methodology, they say, is necessitated by the government's continuing refusal to release information or allow for a proper inquiry into the disturbance.

³ Commission nationale non-gouvernementale d'enquête sur les événements de Serkadji, 21 février 1995 et 22 février 1995, *Rapport d'Enquête*, Algiers, May 1995. The thirty-three-page report offers a cursory account of only two of the deaths among inmates.

The aftermath of the events at Serkadji appears to illustrate the utter impunity accorded by the Algerian government to security forces engaged in trying to suppress Algeria's militant Islamist opposition. Although officials have repeatedly insisted that security force members who commit human rights abuses are punished,⁴ the government has divulged no specific evidence — such as the names of public servants who have been disciplined, the time, place and nature of their transgression, and the nature of their punishment — to prove that they are being held accountable for any of the widespread and gross abuses that are taking place. In a recent statement, Amnesty International declared that it had submitted to Algerian authorities “hundreds of cases of reported extrajudicial executions, torture and ‘disappearances’ at the hands of Algerian security forces,” but, “to date not a single case has been adequately investigated” and no information has been provided concerning measures taken against the perpetrators.⁵

The Serkadji incident is not the first time the government has attempted to cover up the bloody suppression of a prison disturbance. In November 1994, an incident at Berrouaghia prison, seventy-five miles south of Algiers, took the lives of a number of prisoners. The authorities said eight inmates died, all at the hands of mutinous prisoners. But others placed the death toll at thirty or higher. As happened at Serkadji, authorities praised the security forces for putting down an “escape attempt” by Islamist prisoners that turned into a mutiny. Independent access to information about the Berrouaghia mutiny was blocked even more thoroughly than for the events at Serkadji. In neither case have authorities published a complete list of those killed or injured, or allowed a credible investigation to take place.

With regard to Serkadji, the high level of casualties, the burial of those killed without conducting autopsies or allowing families to view the corpses, along with testimony that has been collected, all contribute to suspicions that, regardless of how the disturbance began, it culminated in a willful and indiscriminate slaughter of inmates. Some consider it to have been an act of revenge aimed not only at crushing the mutiny but also at eliminating key political opponents.⁶

Serkadji prison houses both common criminal prisoners and those detained or convicted in connection with activities of outlawed Islamist groups. The inmate population includes several prominent figures in the Islamic Salvation Front (*Front Islamique du Salut*, hereafter the FIS), Algeria's main Islamist party (banned in 1992) and the Armed Islamic Group (*Groupe Islamique Armé*, or GIA), considered the country's most extreme armed resistance faction.

⁴ For example, the Embassy of Algeria in Washington stated in a June 1995 reply to the *Human Rights Watch World Report 1995*:

The Algerian authorities do not condone or tolerate the alleged use of torture Whenever a case of abuse is reported to the proper authorities, a judicial investigation is launched Competent magistrates have ruled on all allegations of torture made by prisoners or by national or foreign human rights organizations and ordered that investigations be conducted to verify such allegations.

⁵ “Algeria: Amnesty International Calls for Thorough Investigations,” communiqué, August 4, 1995.

⁶ Youssef M. Ibrahim, “95 Islamic Militants Killed as Algerians Crush a Prison Riot,” *The New York Times*, February 23, 1995. Two of those killed at Serkadji were well-known Islamist activists: Ykhlef Cherrati and Kacem Tadjouri. Other prominent Islamist figures, including Abdelhak Layada and Abdelqader Hachani, survived.

According to the government, a total of ninety-six inmates were killed at Serkadji, of whom eighty-one were accused Islamist activists and fifteen were common criminal prisoners. In addition, ten inmates and two warders were wounded.⁷ However, no official list of the wounded and dead was released. Members of the Lawyers Association believe that between 100 and 110 prisoners died, a number they say is based on interviews with detainees and families of prisoners. The lawyers said that in the absence of an official list, the number of dead could not be confirmed since the lawyers could not check reports with some prisoners' families living far from the capital. An organization called the Algerian Committee of Free Activists for Human Dignity and Human Rights (*Comité Algérien des Militants Libres de la Dignité Humaine et des Droits de l'Homme*) published in March a list of 105 inmates it said had been killed in the disturbance at Serkadji.

When the security forces staged their assault against the mutineers, the latter were confined within a section of the prison, rather than ranging freely throughout the facility. They apparently had obtained a few firearms and grenades of some kind that had been smuggled into the facility. Others had cold weapons such as knives and sharpened implements. The mutineers were holding a number of prisoners hostage — twenty-six, according to the National Commission, who had been seized from cells containing foreigners, policemen, and civil servants prosecuted for common criminal offenses (p. 21). The danger to these hostages was one of the reasons later given for moving in on the mutineers. At the time of the siege, the mutineers were not holding any prison staff hostage: they had already released one captive guard, and had slain the four others much earlier — a fact known to authorities as they prepared their intervention.⁸

Despite the weapons and hostages in the hands of the rebels, the number of fatalities among inmates is shockingly high not only in absolute terms, but also in relation to the low number of persons on both sides reported injured. (As noted above, the official count was ten inmates wounded. The National Commission asserted that five policemen were wounded during the assault, one mortally.) A siege operation that results in such heavy prisoner casualties demands, at the very least, a thorough investigation. That the assault lasted for a period that the National Commission described as lasting only thirty to thirty-five minutes, raises the suspicion that, regardless of how the disturbance began, the security forces responded by mowing down prisoners indiscriminately, and perhaps executing some in cold blood after resistance ended. These suspicions are fed by the suppression of evidence concerning the incident, and the blocking of all on-site independent investigations.

Human Rights Watch is among the many rights organizations that urged an independent inquiry into the events at Serkadji. On March 4, Human Rights Watch and two other rights organizations, the Lawyers Committee for Human Rights and the Physicians for Human Rights-U.S., wrote to President Liamine Zéroual, offering to conduct or participate in an investigation. The three U.S.-based organizations received no reply to their request, despite subsequent letters and telephone queries to the Algerian Embassy in Washington on this subject.

In issuing its report about the disturbance, the Lawyers Association in Algiers is attempting to keep alive an issue that the regime has sought to bury. Human Rights Watch is not in a position to independently confirm the account prepared by the Lawyers Association, its own efforts to investigate having been rebuffed by the government. In highlighting the findings of the Lawyers Association, Human Rights Watch seeks to re-direct attention to the central and still-unanswered questions of the cause and circumstances of the killings of the inmates, and who, if anyone, bears criminal responsibility for these deaths.

⁷ Algerian TV, Algiers, in Arabic, February 23, 1995, as reported in BBC Monitoring Summary of World Broadcasts (hereafter SWB).

⁸ The Algiers chief prosecutor recounted later that at 10 A.M. on the first day of the revolt, two prominent Islamist prisoners had confirmed to authorities that the four guards had been slain. Algerian TV in Arabic, February 28, 1995, as reported in Human Rights Watch Middle East
Human Rights Watch Middle East 4 August 1995, Vol.7, No.5

Human Rights Watch has previously reported on the extraordinary level of violence in Algeria, condemning human rights violations committed by the security forces as well as Islamist opposition groups fighting to topple the regime. The violence has been endemic since 1992, when a military-backed junta ousted the president and canceled parliamentary elections, after a strong first-round showing by the FIS put it on the verge of capturing a majority of seats. Estimates of the number of persons killed since 1992 range from 10,000 to 50,000.⁹ The wide discrepancy is explained in large part by the difficulty of obtaining accurate information,¹⁰ due to the widespread nature of the violence, restrictions on press freedom¹¹ and access to information, and fear of providing testimony.

Algerian security forces are responsible for a wide range of abuses, including torture in detention, disappearances, and summary executions. Islamist militants are also guilty of gross violations of human rights, assassinating large numbers of civilians who were in no way involved in security force operations.¹² Often the killings have been carried out in such a way as to inflict extreme pain on the victim before death and/or to intensify the suffering of survivors by carrying out the murder in their presence or by mutilating the corpse.

Many of the Islamists being held in Serkadji prison were accused or convicted of participating in the commission of acts of violence prior to their arrest. During the disturbance, some of the prisoners had come into possession of firearms, apparently with the connivance of a guard, and took hostage a number of common criminal prisoners. They killed four guards at the outset, and may have been responsible for killing some of the inmates who died when security forces stormed the wing.¹³

Human Rights Watch deplores the taking of, and the injuring or killing of hostages. We also condemn attempts by rebellious prisoners to coerce, through physical force or threats, other prisoners to participate in acts of disobedience. Human Rights Watch recognizes the responsibility of authorities to maintain and restore order within penitentiary facilities, and to prevent prisoners from escaping or inflicting harm on other persons or on property. If there is evidence linking specific inmates to acts of violence, hostage-taking, or unlawful acts of coercion, they should be prosecuted and punished if found guilty.

⁹ In early June, then-Minister of Interior Abderrahmane Méziane-Chérif estimated the number of those killed at 12,000. Agence-France Presse, June 2, 1995. But the U.S. Department of State, in its *Country Reports on Human Rights Practices for 1994*, estimated that 30,000 had been killed. And according to the Paris daily *Libération* of April 18, 1995, "A report by Algerian military sources referred to 32,700 deaths as of last October, giving credibility to the most serious estimates, which point to 40,000 to 50,000 deaths."

¹⁰ See José Garçon, "L'information, nerf de la guerre civile en Algérie," *Libération*, April 18, 1995; and Youssef M. Ibrahim, "As Toll Rises in Algeria's War, A Dearth of News," *The New York Times*, December 28, 1995.

¹¹ For example, a decree issued in 1994 prohibits newspapers from publishing any security-related information without approval of the Interior Ministry. See Article 19, *Secret Decree: New Attack on the Media in Algeria* (London: Article 19, November 1994).

¹² *Human Rights Watch World Report 1995* (New York: Human Rights Watch, 1994), 256-261; Middle East Watch, *Human Rights Abuses in Algeria: No One is Spared* (New York: Human Rights Watch, 1994); Amnesty International, *Algeria: Repression and Violence Must End* (London: Amnesty International, October 1994).

¹³ The mutineers executed nine of the prisoner-hostages, then-Minister of Interior Méziane-Chérif stated in a radio interview on March 16. (Cited in Agence France-Presse, March 16, 1995.) By contrast, the Lawyers Association claims that hostages were killed by the hail of security-force bullets during the suppression of the mutiny. The National Commission refers in its report to a single case of a prisoner killed by another prisoner, an unnamed hostage slain by a mutineer while trying to flee to safety (p 24). It does not specify how many prisoners were killed by other prisoners.

Human Rights Watch takes no absolute position on when and whether authorities should resort to force rather than peaceful negotiations, in order to end a rebellion or a hostage-taking situation inside a prison. However, when security forces elect to use force, their actions must conform to internationally accepted norms governing the use of force by law enforcement agents. The 1979 United Nations Code of Conduct for Law Enforcement Officials,¹⁴ the leading codification of such norms, states, in Article 3, "Law enforcement officials may use force only when strictly necessary to the extent required for the performance of their duty."

The official commentary to the Code underscores the dual principles of necessity and proportionality in the resort to firearms:

The use of firearms is considered an extreme measure....In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender.

In 1990, a set of Basic Principles on the Use of Force and Firearms by Law Enforcement Officials¹⁵ was adopted that supplemented in considerably greater detail the U.N. Code of Conduct. The Basic Principles applies the concepts of necessity and proportionality to the policing of persons in custody. Article 15 states:

Law enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened.

Article 16 addresses the use of firearms:

Law enforcement officials, in their relations with persons in custody or detention, shall not use firearms, except in self-defense or in the defense of others against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention presenting the danger referred to in principle 9.¹⁶

While neither the Code of Conduct nor the Basic Principles is a treaty binding on the government of Algeria, Human Rights Watch maintains that the principles of necessity and proportionality reflected in them have assumed the status of customary international law. Customary international law is binding on all nations regardless of formal treaty commitments.

The government of Algeria has until now failed to demonstrate that the killings of inmates in Serkadji prison were justifiable in terms of self-defense, protecting others or preventing escapes. And if the authorities can show that one or more of the killings were justified as necessary and proportionate responses to circumstances endangering life or physical integrity, the authorities are no less obliged to provide an accounting for each of the remaining fatalities.

II. RECOMMENDATIONS

Human Rights Watch is gravely concerned by the continuing cover-up and impunity that surrounds the disturbance at Serkadji prison, among the bloodiest incidents to have occurred in a place of detention anywhere in the

¹⁴ Adopted by General Assembly resolution 34/169 of 17 December 1979.

¹⁵ Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

¹⁶ Principle 9 of the Basic Principles permits the use of firearms "in self-defense or defense of others against the imminent threat of death or serious injury, or to prevent the perpetration of a particularly serious crime involving grave threat to life." Human Rights Watch/Middle East, 6 August 1995, Vol. 7, No. 5.

world in recent years. This incident happened only three months after another major prison incident at Berrouaghia, in which many inmates were killed in circumstances that independent bodies have been barred from investigating.

The new report on Serkadji by the Lawyers Association, which charges that security forces indiscriminately killed prisoners during the suppression of the mutiny and executed others afterward, underscores the need for a definitive and public accounting of what transpired during the disturbances at both Serkadji and Berrouaghia prisons.

The government of Algeria must allow investigations that conform to internationally recognized standards, particularly those laid out in the U.N. Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (see excerpts in Appendix 2). The principal objective of the investigation must be to establish the cause, manner and time of death in each case, and to collect evidence of criminal responsibility in cases of unjustifiable killings or the use of excessive force. Investigative bodies should be granted full access to the scene of the events and to all relevant witnesses; authorization to obtain pertinent evidence and documents from the authorities; and the power to order the exhumation of bodies for forensic examination. The inquiry at Serkadji should also examine abuses alleged to have occurred after resistance ended, including allegations that security forces committed acts of reprisal and intimidation against prisoners; and that authorities destroyed evidence relevant to a criminal investigation. The findings should be made public and contribute to the identification and prosecution of those responsible for illegal killings and other abuses.

In January, President Zéroual issued a directive to state agencies underscoring his commitment to human rights. He ordered the Ministry of Justice to scrutinize every reported abuse that came to its attention. Allegations of human rights abuses, states the directive,

will find their response in the ever-resolute commitment on the part of our security forces and all relevant state bodies to respecting the principles of the Constitution and the contents of the law. This response will be that much more effective by being conducted in a climate of openness.¹⁷

In the spirit of this statement, Human Rights Watch urges the government to authorize a thorough and independent investigation into the events at Serkadji and Berrouaghia, and to prosecute those responsible for injuring or killing persons through acts of unjustifiable force. Only by taking these measures can the government demonstrate that it is committed to the rule of law and to holding abusers of human rights accountable for their actions. The continued cover-up of the events at Serkadji can only reinforce the impression that the government considers such mass killings in the context of prison disturbances to be acceptable.

Recommendations to the International Community

¹⁷ "Droits de l'Homme: directive du président de l'état," *El-Watan*, January 17, 1995. The Algerian ambassador in Washington recently reaffirmed his government's commitment to this directive: "Recently, President Liamine Zéroual issued an order which indicated that the fight against terrorism is being undertaken in full conformity with the law because Algeria is a state of law and order and it intends to so remain. President Zéroual stressed that whenever evidence supported cases of abuse, he expected the judicial authorities to look into them and deal with them with all the rigor of the law." "Comments and Answers on the [1995 Annual] Report of Human Rights Watch/Middle East, on Algeria," Embassy of Algeria, Washington, D.C., June 1995.

President Zéroual and government ministers have made numerous statements affirming the government's commitments to human rights. Speaking on October 19, 1994 at the opening of the 1994-1995 judicial term, President Zéroual said, "The action of our security forces, conducted to guarantee law-enforcement, is carried out and will be carried out in the respect of the law and the citizens' rights. I already put myself as the guarantor and I confirm it again. Justice must see to that." Shortly after taking office in 1994, Zéroual reportedly said that he would "personally monitor compliance with human rights and would not tolerate any abuse." Agence France-Presse, February 14, 1994.

Prime Minister Mokdad Sifi has also made similar statements. In a June 23, 1994 interview with the Brussels daily *Le Soir*, he said "The security services have received firm instructions not to fall into the trap of repression, even at the risk of delaying their operations or of losing men. And every measure has been taken to severely punish any excesses." As reported in Human Rights Watch/Middle East, Foreign Broadcast Information Service, June 23, 1994/ August 1995, Vol.7, No.5

Human Rights Watch has repeatedly urged governments and international lending institutions to make human rights a priority in their contacts with the government of Algeria.¹⁸ We again urge them to condition future grants, loans and credits on a commitment on the part of Algiers to make tangible improvements in its poor human rights record.

A key indication of resolve to curtail abuses is the effort made to investigate alleged abuses by security forces, to punish wrongdoers, and to release details of the measures taken. The dismal performance of the Algerian government in this regard is shown in its cover-up of the suppression of the Serkadji disturbance, as described in this report.

Human Rights Watch urges governments and lending institutions to insist that the government of Algeria demonstrate a commitment to investigating in a credible and transparent fashion allegations of abuses committed by its security forces. In their dealings with the regime, third parties should raise particularly troubling incidents like the disturbance at Serkadji, and make clear that aid levels will be tied to progress in ending grave abuses of basic rights.

III. THE EVENTS OF FEBRUARY 21-22 AT SERKADJI PRISON

Serkadji prison is Algeria's best-known place of detention. An Ottoman-era facility that sits atop the Algiers inner-city neighborhood of the Casbah, it housed many independence fighters when the French governed Algeria and the prison was known as Barberousse.

At the time of the disturbance in February, Serkadji was holding a total of 1,537 prisoners, 920 of them Islamists and the rest common criminal offenders, according to the National Commission. All of the prisoners were adult males. In prisons throughout the country, at least 10,000 Islamists were being held as of May 1995, according to the commission.¹⁹

Early in the morning of February 21 a disturbance broke out in the section housing prisoners sentenced to death. The events began as an escape attempt with the complicity of a guard, according to government officials as well as the Lawyers Association and the National Commission. During the operation, prisoners killed four prison staffers. After the escape attempt was thwarted, the rebels freed other Islamist prisoners from their cells and seized hostages from among the common criminal prisoners. (In a statement of March 16, the Ministry of Interior claimed that the prisoners had accomplices both inside the prison and outside. The Lawyers Association also reported the involvement of a complicit guard but raised the possibility that he had in fact set up the would-be escapist.)

Several hours of negotiation ensued between the mutineers and the prison authorities. The talks revolved around various issues, including immunity from punishment for prisoners who had not taken part in the murder of guards, and the prisoners' demand to bring in defense lawyers to witness implementation of the agreement. While the National Commission and the Lawyers Association provide divergent accounts of those negotiations, they concur that after protracted talks, security forces moved in and used massive force to end the rebellion. The commission reported that the final assault followed intermittent exchanges of gunfire between the two sides. The commission said the final assault began at about 10:15 A.M. on February 22, and lasted between thirty and thirty-five minutes.

¹⁸ See *Human Rights Abuses in Algeria*, 8-9. Concerning human rights violations committed by armed Islamist groups, Human Rights Watch has urged governments to demand in any contacts they maintain with representatives of the FIS that that party do everything in its power to repudiate and to halt rights abuses committed by Islamist groups, particularly the assassination of persons not directly involved in security force operations.

¹⁹ The report of the National Commission states that in a total prison population of 28,000, 10,000 are being held within the framework of the Law on Terrorism and Subversion. This 1992 law has been used almost exclusively to prosecute Islamists. (See Middle East Watch, *Human Rights Abuses in Algeria*.) The actual number of Islamists imprisoned may be higher if this figure excludes those being held without charge and those facing charges under Algeria's criminal code. The Commission figure seems more credible than that provided in June by then-Interior Minister Méziane-Chérif of between 3,000 and 4,000 imprisoned Islamists. *Human Rights Watch/Middle East*, June 2, 1995. 8 August 1995, Vol.7, No.5

Then-Justice Minister Mohamed Téguia said on February 22 that ninety-five inmates had been killed. The following day, the official tally was revised to ninety-six. However, the authorities did not issue a list of all those who died in the disturbance. The failure to do so caused panic among prisoners' families, who were prevented from visiting the prison in the days after the rebellion and had no way of confirming the fate of their relatives. To this date, the authorities have refused to publish a list of those killed, maintaining that notification of death was a confidential matter, to be communicated only to the individual families or lawyers of the deceased.²⁰

The report of the National Commission provided the following breakdown of the death toll: Eighty-one of the prisoners were being held in connection with charges of "terrorism and subversion," i.e., Islamists, and the other fifteen were common criminal prisoners. Among the Islamists, twenty-eight had been given the death penalty and twelve had received life sentences. Twenty-six of the Islamists had not yet been tried.

The official account of the rebellion emerged in the days following its suppression. The government depicted it as an escape attempt that failed and was then transformed into a mutiny. It had been organized by the Armed Islamic Group (GIA), according to a report on the state-run radio of February 25.²¹ In a television interview on February 28, the Algiers Chief Prosecutor explained the circumstances that necessitated the assault on the inmates:

²⁰ Cited in the report of the National Commission, p. 30.

...The insurgent prisoners had brought downstairs other common-law prisoners, including former civil servants, foreigners and others....Fearing for them and for the rest of the inmates, the crisis cell decided to allow the security forces to storm the prison to restore security to the institution and to protect the rest of the inmates, who had nothing to do with this case, from any harm. It was the responsibility of the state to protect and ensure the safety and security of the prison and its inmates according to the law.²²

IV. RESTRICTING INFORMATION IN THE AFTERMATH

In the two weeks following the disturbance, lawyers and families of Serkadji inmates waged a legal and administrative battle to obtain access to prisoners and to information about their fate. On February 27, Ministry of Justice officials stated that authorities at Serkadji had sent telegrams of notification to the families of each deceased person, and that their lawyers had also been informed.²³ But the lawyers denied this assertion the following day, and claimed that some families remained in the dark.

Eventually, all or nearly all of the families of those killed did receive official notification of death. But aside from bits of information relayed by prisoners during lawyer and family visits, little independent information emerged — in the press or elsewhere — about what had happened in Serkadji.

It was not until March 5, eleven days after the disturbance, that lawyers were able to visit some of their clients. A statement issued later that day and signed by eleven of the lawyers declared:

The first pieces of information [available] underscore the urgent need to open an inquiry in order to establish the truth of the tragedy, an inquiry entrusted to a neutral commission.

In addition, the detainees whom the lawyers were able to visit affirm that they continue to live under disturbing conditions, humiliation, abuses, and physical and psychological tortures, deprivation of food for several days running....They also testified that some of those wounded have not received any care and that their lives are in danger.

In the week that followed, more information became available about the fate of the inmates. However, the defense lawyers continued to maintain that the information was incomplete. They charged that the number of inmates killed exceeded the official number of ninety-six (see page 3 above). They also charged that some of the worst brutality, including executions, took place after the rebellion had been suppressed. According to testimony cited in the report of the Lawyers Association, after control was re-established in the area where the mutiny had taken place, authorities read out the names of certain prisoners on a list:

Those who responded to the call were taken to another place and executed Those detainees who managed to escape the carnage were gathered in the courtyard after being forced to leave their cells on their hands and knees while being beaten all over their body with rifle butts, iron rods and wooden clubs....Nearly all of the detainees had marks of these abuses on their bodies that the lawyers saw during their first visit to their clients.

The report also contends that inmates were beaten and pressured not to tell the truth about what had happened.

²² Algerian TV in Arabic, February 28, 1995, as reported in BBC Monitoring SWB

Shortly after the mutiny ended, authorities gave assurances that the incidents would be investigated. State-run radio reported on February 25 that Prime Minister Mokdad Sifi had asked then-Minister of Interior Méziane-Chérif to chair a commission of inquiry. The commission would be composed of representatives of the Ministry of Justice, the National Gendarmerie, and the National Security. Sifi reportedly instructed the commission to investigate resolutely and with transparency.²⁴

The National Human Rights Monitoring Body (ONDH) announced its intention to form an independent commission of inquiry. ONDH President M. Kemal Rezzag-Bara declared that the inquiry would seek to examine conditions of detention in Serkadji, as well as to "determine whether in the resort to armed force during the mutiny, the security forces conducted themselves in accordance with the [U.N.] Code of Conduct for Law Enforcement Officers...and Algerian law."²⁵

The ONDH is a semi-official and state-financed body. It was created in 1992 by a decree of the president of the High Council of State, the executive body installed by the junta that staged the presidential coup in January of that year. During its first three years, the ONDH has occasionally criticized abuses by government forces, including the internment without charge of hundreds of Islamists, cases of mistreatment of detainees, and illegal prolongation of *garde à vue* detention.²⁶ On balance, however, it has yet to establish a reputation for diligently probing and publicizing abuses committed by government forces.

The ONDH's announcement of its intent to investigate the events at Serkadji did not appease human rights organizations and parties of the opposition, which continued to urge an independent probe. Calls came from such groups as the Algerian League for the Defense of Human Rights (*Ligue Algérienne de Défense des Droits de l'Homme*, headed by Abdennour Ali Yahia), the Algerian Committee of the Rights of the Person and of Peoples (*Comité Algérien des Droits de l'Homme et des Peuples*),²⁷ and Amnesty International.²⁸ The call was joined also by the eight opposition parties that had signed a platform in Rome one month earlier, calling on the government to open negotiations on setting up a transitional government leading to democratic elections. In a joint communiqué and letter to President Zéroual, Human Rights Watch, the Lawyers Committee for Human Rights and Physicians for Human Rights-U.S urged an independent inquiry and offered to participate in its execution.²⁹

²⁴ Algerian Radio in Arabic, February 25, 1995, as reported in BBC Monitoring SWB.

²⁵ ONDH communiqué, February 27, 1995.

²⁶ For example, in January 1995, the ONDH was reported to have submitted to President Zéroual a dossier containing information about 327 cases of alleged abuses that had come to its attention, including mistreatment and suspicious deaths in detention, disappearances, arbitrary arrests, and illegally prolonged *garde à vue* detention. See Lyes Abdelmalek, "327 cas soumis au Président de l'Etat," *El-Watan*, January 18, 1995.

²⁷ Communiqué, February 23, 1995. The two-year-old committee is based in Kouba in Algiers.

²⁸ Amnesty International communiqué, February 27, 1995.

In rejecting calls for an independent probe into the Serkadji disturbance, the Justice Ministry released a statement asserting that "no body was better equipped than the state to shed light on this matter." It termed "absurd" suggestions that state institutions should be put at the "disposition of the first to come so it can interpret their actions."³⁰ Human Rights Watch and the other U.S.-based organizations never received a reply to their request to investigate, despite follow-up communications with officials by telephone and fax.³¹

The government's non-response to the démarche by the U.S.-based organizations belied repeated announcements made since 1994 by government officials that Algeria was ready to allow human rights organizations to conduct fact-finding missions in Algeria. Just two weeks before the disturbance at Serkadji, Foreign Minister Mohamed Salah Dembri told the U.N. Human Rights Commission in Geneva:

My country, which attaches the highest importance to relations with international human rights organizations, is open to strengthening cooperation with these organizations so that they can assess, in complete objectivity, the efforts being made by the Algerian authorities in this domain.³²

Acknowledging a letter dated May 12 requesting information about the disturbances at Serkadji and Berrouaghia prisons, Algerian Ambassador in Washington Hadj Osmane Benchérif wrote on June 23 that he would forward any pertinent information to Human Rights Watch that became available. On July 14, Human Rights Watch again wrote to Ambassador Benchérif, posing a series of specific questions about the prison disturbances, and promising that any reply from authorities would be reflected in this report. By August 6, when this report went to press, no information whatsoever had been provided by the ambassador or any other official despite Human Rights Watch's queries dating back to March.

The ONDH, after proposing to form an independent commission of inquiry into the events at Serkadji, encountered difficulty in recruiting participants. In its initial statement on the matter, the ONDH proposed the participation of the ONDH, the National Bar Association (*Union Nationale des Barreaux*), the High Council of Judges (*Conseil Supérieur de la Magistrature*), the Algerian Human Rights League (*Ligue Algérienne des Droits de l'Homme*, or LADH), the Algerian League for the Defense of Human Rights (LADDH), and the Algerian Medical Association.

³⁰ Ministry of Justice communiqué, reprinted in *El-Moudjahid*, March 3, 1995.

³¹ The official view was alluded to in the report of the National Commission: When the three U.S.-based groups proposed to come to investigate, the government's response was that the proposed commission of inquiry "should be national and nongovernmental" (p.2). This phrasing is an apparent reference to the commission formed by the ONDH, which is the sole nongovernmental entity to have been granted access to the prison and pertinent officials.

³² The full text of Dembri's speech is reprinted in *El-Moudjahid*, February 10, 1995. Dembri has stressed this theme throughout the past year. In a June 1994 interview with the *Washington Post*, he said that Algeria was "ready to invite all humanitarian organizations" that were concerned about the rights situation. Jonathan C. Randal, "Algeria Willing to Invite Human Rights Monitors," *Washington Post*, June 7, 1994. On April 13, 1995, Dembri reiterated this invitation in Bonn, saying "The Algerian state has agreed that every international organization can verify the manner in which it is fulfilling its constitutional obligations to protect property and persons." Agence France-Presse, April 13, 1995.

In fact, some human rights organizations, including Amnesty International, have been permitted to conduct fact-finding missions in Algeria during the past year.

Of these bodies, only the High Council of Judges and the Medical Association agreed to take part. The LADH issued a statement declaring its refusal to participate in the commission and demanded publication of a list of those killed. Explaining the League's position, Secretary General Ghechir Boudjemaa told Human Rights Watch³³ that, among other factors, ONDH President Rezzag-Bara appeared to have prejudged the events when he told the press in Geneva immediately after their occurrence that the affair was a "mutiny...that was not connected to conditions of detention or to the pace of the judicial process."³⁴

The LADDH did not reply to the ONDH proposal. However, LADDH president Abdenmour Ali Yahia maintained that a commission organized by the ONDH could not be neutral.³⁵ According to the ONDH, the Bar Association also did not reply to the invitation. In the end, the National Commission was composed only of representatives of the ONDH, the High Council of Judges, and the Medical Association.

The commission released its report in May. According to the work agenda included in the report, the commission first visited Serkadji prison on March 28, and conducted five subsequent visits. Ten prisoners were interviewed in the course of the visits. The commission also met with prison authorities, the Algiers chief prosecutor at the Court of Algiers, the chief of staff of the Ministry of Interior, and the investigating judge (*juge d'instruction*) responsible for investigating the prison incident.

Among its objectives, the commission states in the introduction to its report, was to "act, in an independent framework, to examine custodial conditions at Serkadji and to determine the circumstances in which the resort to armed force to restore order and discipline took place inside the facility (p. 2)."

The findings of the commission do nothing to call into doubt the official version of the events. Its report uncritically refers to the view expressed by members of the crisis negotiating team that "the intervention was justified not only by the failure of negotiations, but also by the increasingly real risks of execution hanging over the life of the detainees taken hostage by the group of rejectionists" (p. 23). The report does not furnish the basis for this conclusion, and makes no effort to determine whether the lethal means used to quell the mutiny were in any way disproportionate, indiscriminate, or patently unlawful.

Little space is devoted to examining the apparently negligible efforts to use less lethal weapons before resorting to live ammunition. At one point, however, the commission explains, "According to the information furnished to the commission, the intensive use of tear gas canisters was ruled out, due to the configuration of the detention block and the risk of asphyxiation that would confront a large number of detainees who would not have access to ventilation (p. 24)." But after noting the authorities' apparent compunction about the effects of tear gas on prisoners, the commission does not critically examine the deadlier effects of live ammunition that was used later. No effort is made to determine how many of those killed were not active participants in the mutiny, or when they died.

In order to learn the views of the National Commission on these and other critical issues that do not figure in its report, Human Rights Watch faxed, on July 18, a letter and list of questions to M. Kamel Rezzag-Bara, rapporteur of the commission and president of the ONDH. At press time (August 6), no reply or acknowledgment had been received.

³³ Telephone conversation with Human Rights Watch, May 15, 1995.

³⁴ These remarks appeared in an interview with Rezzag-Bara published in *El-Moudjahid* of February 24, 1995. Rezzag-Bara was in Geneva attending the meeting of the U.N. Human Rights Commission.

The dead prisoners were buried in El-Alia Cemetery without autopsies being performed or the families being permitted to view the bodies or attend the burial. Most, said the Lawyers Association, were buried before they had been identified, their graves marked with the inscription "*X Algérien*". The National Commission states that the hasty burials were necessitated by the inability of the Bologhine morgue to accommodate the large number of corpses arriving from the prison. The Commission maintains that before individuals were buried anonymously, fingerprints and photographs were taken to allow for eventual positive identification (pp. 26-27). However, the defense lawyers told Human Rights Watch that none of the families have seen the photographs purportedly taken of the bodies.³⁶ Thus, they have been presented with no material evidence of the death of their relatives.

No autopsies were conducted. According to the National Commission, "No autopsy was performed, not on the guards whose throats had been slashed, not on the hostage-detainees, nor on the mutineers, because, as the Office of the Prosecutor made clear to the commission, the cause of death was known" (p. 28). This explanation is absurd, because critical information about the cause and circumstances of death can often be drawn from such forensic information as the number and location of bullet entry and exit wounds. Autopsies might help to establish whether, for example, inmates were killed by other prisoners or executed after surrendering.

Absent verifiable confirmation of the identity of those killed, the possibility cannot be ruled out that some of those who are said to have died in the disturbance were secretly transferred to another location, either a hospital or another place of detention. While Human Rights Watch is aware of no evidence to suggest that this happened, something similar did occur in Peru after authorities crushed a coordinated prison revolt at three prisons in 1986 and withheld from the public verifiable information about those killed. At one of the three prisons, El Fronton, Human Rights Watch and Amnesty International reported that there was evidence that tens of prisoners were murdered or "disappeared" well after surrendering and being secretly removed from the premises.³⁷

In fact, Algerian authorities violated nearly every basic norm for conducting a credible medico-legal inquiry into the killings. The most widely accepted formulation of those norms is the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the U.N.'s Economic and Social Council and endorsed by the General Assembly in 1989 (see Appendix 2 of this report).³⁸ An investigation that adheres to these principles is far more likely to be viewed as serious and impartial, and capable of deterring future abuses by reinforcing a sense of accountability among law enforcement officials.

The Principles require that "a thorough, prompt, and impartial investigation" be conducted into all suspected cases of extra-legal, arbitrary and summary executions (Principle 9). The investigation is to include an autopsy (and exhumation, where necessary), to determine the cause and manner of death (Principle 12). Family of the deceased shall be entitled to present evidence, to obtain information relevant to the investigation, and to receive the body upon completion of the investigation (Principle 16). The probe is to yield a report that is made public, describing in detail specific events that were found to have occurred, and the evidence upon which such findings were based (Principle 17).

To ensure an effective inquiry, evidence at the scene of the killings must be preserved. But at Serkadji, the authorities undertook a systematic eradication of material evidence. The Lawyers Association charges:

³⁶ Amnesty International also reports that two of its delegations that visited Algeria since the disturbance at Serkadji were unable to see the photographs or, for that matter, to visit the prison. "Algeria: Amnesty International Calls for Thorough Investigations," communiqué, August 4, 1995.

³⁷ Americas Watch, *A Certain Passivity: Failing to Curb Human Rights Abuses in Peru* (New York: Human Rights Watch, 1987), 49-50. See also Amnesty International, *Peru: "Disappearances," Torture and Summary Executions by Government Forces after the Prison Revolts of June 1986* (London: Amnesty International, 1987).

³⁸ Economic and Social Council resolution 1989/65, annex of 24 May 1989, endorsed by the General Assembly in Human Rights Watch/Middle East 1989. August 1995, Vol.7, No.5

The prison administration immediately set about restoring the places where the carnage took place and eliminating all evidence....In the days that followed the carnage, the Serkadji prison administration — which remained in place despite the demand made by the [defense] lawyers to evacuate them from the premises — set about destroying the material evidence of the carnage by restoring the condition of the courtyard, the halls and the cells, by plugging in the holes of bullets and grenades in the walls. The blood-stained clothing of victims was burned. Room 25, the main scene of the carnage, was completely restored. These places should have been systematically sealed off by the judicial authorities. Nothing of the sort was done despite the explicit requests by the lawyers (pp. 12-13).

The National Commission, which, unlike the lawyers, was able to inspect the scene of the mutiny and its suppression, does not comment on the condition of the forensic and material evidence.

The allegations of the Lawyers Association concerning destruction of evidence, if confirmed, would signal blatant violations of investigation norms. The Model Protocol for a Legal Investigation of Extra-Legal, Arbitrary and Summary Executions, which provides concrete guidelines for implementing the above-cited Principles, states in Part C:

One of the most important aspects of a thorough and impartial investigation of an extra-legal, arbitrary and summary execution is the collection and analysis of evidence. It is essential to recover and preserve physical evidence, and to interview potential witnesses so that the circumstances surrounding a suspicious death can be clarified....

(a) The area around the body should be closed off. Only investigators and their staff should be allowed entry into the area;

(b) Colour photographs of the victim should be taken as these, in comparison with black and white photographs, may reveal in more detail the nature and circumstances of the victim's death;

(c) Photographs should be taken of the scene (interior and exterior) and of any other physical evidence....

(i) Castings should be made and preserved of pry marks, tyre or shoe impressions, or any other impressions of an evidentiary nature;

(j) Any evidence of weapons, such as guns, projectiles, bullets and cartridge cases, should be taken and preserved. When applicable, tests for gunshot residue and trace metal detection should be performed....³⁹

Unable to obtain information or material evidence about how their relatives died, some of the families have filed suits at the Raïs Hamidou court in Bab el-Oued for voluntary homicide and have demanded the opening of an investigation, including exhumations and autopsies, in order to determine the identity of each victim. The court has not yet taken up these suits.

V. KILLINGS AT BERROUAGHIA PRISON IN NOVEMBER 1994

The bloody events at Berrouaghia prison last November remain clouded in even greater obscurity than those at Serkadji. To date, the number of casualties has not been established. The Algerian Embassy in Washington did not respond to two written requests from Human Rights Watch for information concerning the events at Berrouaghia

³⁹ The Principles were published, together with the Model Investigation Protocol, a Model Autopsy Protocol, and other related documents in the U.N. *Manual on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* (New York: United Nations, 1991).

prison.

Like Serkadji, Berrouaghia is a large facility housing both Islamist and common criminal prisoners. And as at Serkadji, the authorities blame the Islamists for starting the rebellion after a failed escape attempt.

Shortly after the disturbance, the press offered conflicting accounts of the circumstances and number of casualties. On November 15, the Algerian daily *El-Watan* reported that eight prisoners had been killed when security forces put down a rebellion. (Given the heavy press censorship in Algeria, *El-Watan's* figure almost certainly came directly from the security authorities.) The same day, the daily *El-Moudjahid* reported that eight common criminal prisoners had been killed by the mutineers. Also the same day, the Associated Press, citing unidentified officials, said at least thirty prisoners had been killed.⁴⁰

Lawyers in Algiers estimate the number of prisoners killed at over forty. One organization, the Algerian Committee of Free Militants for Human Dignity and Human Rights, said the number was at least sixty-two, basing this assertion on what it said was concurring testimony of prisoners' families and residents of the nearby city of Medea, who claimed to have witnessed the burial of bodies in a collective grave in a Medea cemetery.⁴¹

Shortly after the suppression of the disturbance at Berrouaghia, then-Minister of Justice Mohamed Téguia gave the following account of what happened: Early in the morning of November 13, Islamist prisoners tried to seize guards as hostages in an attempt to escape from the prison. When the guards managed to flee, the mutineers, along with other "convicted terrorists," tried to compel common criminal prisoners to join in the rebellion. The latter refused to join and urged the guards to intervene in order to rescue a wounded detainee and remove the body of another whose throat had been slashed. During a period of negotiations lasting forty hours, the general prosecutor and prison authorities tried in vain to end the standoff. The mutineers did not heed orders to turn over the wounded prisoner, and kept him as a hostage. They broke apart doors and beds in order to make weapons from them. Finally, the security forces intervened, using tear gas to put down the revolt and enabling the vast majority of prisoners to escape to safety.⁴² In this interview, Téguia gave no casualty figures.

To date, no nongovernmental probe whatsoever has been conducted to substantiate the version provided by the Justice Minister. It is perhaps due to the remoteness of Berrouaghia prison that the bloody events there have remained even more hushed-up than the disturbance three months later at Serkadji, which is located near downtown Algiers.

Shortly after the disturbance at Serkadji, the association of lawyers with clients at that prison stated in a communiqué:

Our justifiable concern [for our clients] is all the more appropriate in view of the fact that no information concerning the identity and number of victims in Berrouaghia prison, or concerning the circumstances of their death, has been made public until this day.

⁴⁰ "Algerian Prison Riot Kills at Least 30," *Washington Post*, November 16, 1994.

⁴¹ Algerian Committee of Free Militants for Human Dignity and Human Rights, communiqué, January 10, 1995.

APPENDIX 1
PARTIAL LIST OF PRISONERS REPORTED KILLED
DURING DISTURBANCE AT SERKADJI PRISON

Following are the names of prisoners sentenced to death or life imprisonment who were killed during the disturbance at Serkadji prison, according to information collected by the ad hoc association of lawyers with clients at Serkadji. A list of the remaining prisoners reported killed could not be obtained as this report went to press.

Mouici Boualem	Simozrag Mohamed Yacine
Ait bellouk Mohamed	Boubacha Sid-Ali
Benrabah Abdelkader	Chanoun Sadek
Hadjouti Mustapha	Cherif Brahim
Touami Rabah	Cherrati Yakhef
Kestali Reda	Sadoun Mohamed
Harik Nouredine	Benallel Mohamed
Tebbi Mohamed	Bouchafaa Zakaria
El oued Mohamed	Bouznoun Boualem
Dada Tahar	Kaci Seddik
Dridi Nacereddine	Touhami Abdelkrim
Djebbar Nabil	Boualem Kada
Metadjer Hocine	Saadallah Nacer
Bouakaz Mourad	Tounsi Bouzid
Salmi Rabah	Saadoun Miloud
Saidi Adelkrim	Mechrouk Mohamed
Saidi Mouloud	Arrouche Aissa
Bouazza Azzedine	Nekliz Abderrahmane
Ahlouche Toufik	Bouhroud Abdelhamid
Bouraine Seddik	Saidi Moussa
Djillali Belkacem	Ben belaid Abdelhafid
Saydi Lamouri	

APPENDIX 2
PRINCIPLES ON THE EFFECTIVE PREVENTION AND INVESTIGATION
OF EXTRA-LEGAL, ARBITRARY AND SUMMARY EXECUTIONS (EXCERPTS)

Note: Concrete guidelines for implementing the Principles are contained in the Model Protocol for a Legal Investigation of Extra-Legal, Arbitrary and Summary Executions ("Minnesota Protocol"), the Model Autopsy Protocol, and the Model Protocol for Disinterment and Analysis of Skeletal Remains. These documents, along with the Principles, are reprinted in the U.N. *Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* (New York: United Nations, 1991).

9. There shall be a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances.

12. The body of the deceased person shall not be disposed of until an adequate autopsy is conducted by a physician....If the body has been buried and it later appears that an investigation is required, the body shall be promptly and competently exhumed for an autopsy....

13.The autopsy shall, at a minimum, attempt to establish the identity of the deceased and the cause and manner of death. The time and place of death shall also be determined to the extent possible. Detailed colour photographs of the deceased shall be included in the autopsy report in order to document and support the findings of the investigation. The autopsy report must describe any and all injuries to the deceased including any evidence of torture.

16. Families of the deceased and their legal representatives shall be informed of, and have access to, any hearing as well as to all information relevant to the investigation, and shall be entitled to present other evidence. The family of the deceased shall have the right to insist that a medical or other qualified representative be present at the autopsy....The body of the deceased shall be returned to them upon completion of the investigation.

17. A written report shall be made within a reasonable period of time on the methods and findings of such investigations. The report shall be made public immediately and shall ... describe in detail specific events that were found to have occurred, and the evidence upon which such findings were based....The Government shall, within a reasonable period of time, either reply to the report of the investigation, or indicate the steps to be taken in response to it.

Human Rights Watch/Middle East

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