



Robert A. Leflar Law Center • Fayetteville, Arkansas 72701 • (501) 575-5601

School of Law

October 12, 1999

The Honorable Hillary Rodham Clinton, Esq.
c/o Carolyn Huber
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

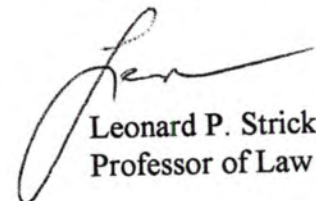
Dear Hillary:

I appreciate your response to my letter about Lori Berenson. I have talked with Mark, her father, today, who has recently returned from Peru, where Lori has again been placed in isolation by Peruvian prison authorities. Her physical and mental health are suffering.

→ You indicated your willingness to meet with Mark and Rhoda. Now, more than ever, they would really appreciate that opportunity. Their number is 212-689-9572. Thanks again for your attention and the President's.

With warm regards,

Sincerely,


Leonard P. Strickman
Professor of Law

*file Berenson
Peru*

Berenson Summary

We have consistently made clear to the Government of Peru our belief that Ms. Berenson deserves a fair trial before a civilian court. Our consulate also maintains regular contact with Ms. Berenson, calling her once a week and visiting her every three months. In addition, we have regularly raised with the Peruvian authorities various issues regarding the conditions under which she is being held. Our interventions have resulted in some improvements.

We have also held quiet negotiations with the Peruvians about a possible resolution in which they might reduce Lori's sentence and permit her transfer to a U.S. facility. However, the Peruvians have thus far refused to undertake any positive action which could ultimately be attributed to them.

Last week, Buddy MacKay visited Peru, met with President Fujimori, and raised the case with him. Buddy urged a quick resolution of the matter, raising again the idea of a reduction of her sentence and a prisoner transfer. Although Fujimori did not respond to Buddy's points, one of his aides did indicate that they would get back to us on the matter.

We are not optimistic about a solution to this case in the short term. Fujimori is currently positioning himself for re-election in April 2000. Much of his public support derives from his successful fight against terrorism. Lori's militant statement at her sentencing, in which she called the guerrillas with whom she is accused of collaborating "revolutionaries" and not "terrorists," has created a widespread perception in the Peruvian public that she had an association with them. Thus, Fujimori has little incentive to act generously in Lori's case. Moreover, there are thousands of Peruvians who were convicted under the same procedures received by Lori. A decision to grant her a new trial or to release her would create a problematic precedent for these other cases.

We also have limited leverage over Fujimori, particularly given his overriding domestic political interest in maintaining a hard line against terrorists. Moreover, any threats we might make, (such as curtailing counternarcotics assistance or aid to the poor) would compromise other important U.S. interests.

We believe our best hope for obtaining justice in Lori's case lies after the April elections. If Fujimori runs and is re-elected (which we currently expect), he will not have the same

strong political interest in maintaining a hard line in Lori's case. If he is not re-elected, we may have a chance of striking a deal with a new leader.

In the interim, we should lay the basis for some sort of post-election deal such as the one described above (e.g., a reduction of sentence in exchange for Lori's transfer) and seek to mitigate legitimate complaints Lori may have about the conditions under which she is being held.

Rhoda and Mark Berenson
320 East 25th Street
New York, NY 10010
Tel.: 212-689-3868 and Fax: 212-689-9572

June 2, 1999

The Honorable Hillary Rodham Clinton
The First Lady
The White House, 1600 Pennsylvania Avenue
Washington, DC 00000

Dear Mrs. Clinton:

We are very pleased to know that you will be the keynote speaker at graduation ceremonies at our alma mater, CCNY. We both have fond memories of our commencement ceremony in 1963 when the Reverend Doctor Martin Luther King was the keynote speaker. We know that this is a very important day for you, the graduates, and the CCNY community. Unfortunately, this day, like so many others these past three and a half years, is one that we cannot enjoy.

We are writing this letter to ask for your personal assistance in our efforts to obtain justice for our daughter Lori who is currently serving a life sentence in Peru following her conviction for "treason" by a secret, hooded military tribunal, in violation of international law. She has termed the charges against her preposterous and she has repeatedly proclaimed her innocence. Her physical health has been impaired due to the harsh conditions of incarceration in Andean prisons. The psychological abuse she has been subjected to by prison officials and other prisoners these past few months is now taking a different toll and causes us new concerns.

Peruvian President Alberto Fujimori continues to ignore requests that he meet his international legal obligations in Lori's case, including requests from the US Department of State, the Congress, and the United Nations High Commission for Human Rights which recently declared that her case is one in which disrespect for international norms is of such gravity that she must be considered to be arbitrarily deprived of liberty.

Over the past three and a half years we have met repeatedly with members of the State Department and since July 1998 we have been in regular contact with members of the National Security Council. However, the bottom line remains that after three and a half years we see no progress toward a resolution of her case. All we see is continued deterioration of Lori's health.

You, more than any other First Lady in history, have been a champion of women's rights and children's rights, not only in the US but around the world. At the time of Lori's arrest, she was writing articles about the effect of poverty on women and children in Peru. Lori's purpose in life was to be of help to those less fortunate than herself. Unfortunately, she now needs the help of others. We urge you to do everything possible to bring Lori home now, before her health deteriorates even further. Please help!

Sincerely,

A handwritten signature in cursive script, appearing to read "Rhoda Berenson" followed by a flourish, likely representing both Rhoda and Mark Berenson.

Rhoda and Mark Berenson

PLEASE HELP LORI BERENSON

Lori Berenson, a young American woman, is currently serving a life sentence in Peru following her conviction by a secret, hooded military tribunal, in violation of international law. She was denied a fair public trial by a competent, independent, and impartial tribunal, as required by Article 14 of the International Covenant on Civil and Political Rights, ratified by Peru on April 28, 1978. On January 11, 1996 she was sentenced to an Andean maximum security prison where she now is kept under inhumane conditions that threaten her very life.

At the time of Lori's arrest, on Nov. 30, 1995, she was working as a journalist with assignments from two American publications. She had been researching articles on women's rights and poverty in Peru and had interviewed several members of the Peruvian Congress. After her arrest she was "tried" in secret by a military tribunal and sentenced by a "faceless" judge. She was convicted of treason (even though she is a U. S. citizen) and sentenced to life in prison with no parole. She has termed the charges against her preposterous and has repeatedly and strongly proclaimed her innocence.

Since January 1996, Lori has been incarcerated high in the Peruvian Andes mountains. There is no heat and no running water in her all-concrete 6 X 10 foot cell. Food is insufficient. She is allowed out of her cell only one hour each day for exercise and the high altitude has caused digestive and circulatory problems and she suffers from chronic laryngitis. She is denied access to the outside world — no radio or TV, no newspapers or magazines, and no telephone calls. Letter writing, a privilege that can be denied at any time, must be in Spanish and is censored. Only immediate family can visit. Journalists and human rights groups are denied access to maximum security military prisons and to political prisoners.





WHO IS LORI BERENSON?

Lori Berenson was born and raised in New York City. She attended public schools, the LaGuardia High School of Music and Art and the Massachusetts Institute of Technology. She studied music and anthropology and from a very early age expressed deep concern for the suffering of those less fortunate than herself. While still a teenager she worked in soup kitchens, volunteered at a blood bank and helped sponsor a foster child in Guatemala with money from her part-time jobs.

WHAT WAS SHE DOING IN PERU?

Lori's interest in Latin America began when she was an anthropology student at the Massachusetts Institute of Technology. Her research into land and wealth distribution in El Salvador led her to visit that country with a group of Quaker women in 1988 and then as a foreign exchange student in 1989. She returned to El Salvador in 1993 after the peace accords that ended the civil war in that country, and she worked with refugees who had been displaced by that war. In late 1994 she went to Peru to study the people and their culture and to observe for herself the plight of the Peruvian poor and the response of the Peruvian government to their plight. At the time of her arrest she was a free-lance journalist with assignments from two American publications—"Modern Times" and "Third World Viewpoint."

WHAT ARE THE CHARGES AGAINST HER?

The Peruvian military police alleged that Lori Berenson was a leader of a rebel group — the MRTA (Movimiento Revolucionario Tupac Amaru) — and charged her with treason because of this alleged leadership. She has termed the charges against her preposterous and has strongly denied being even a member of this group. She has stated again and again that she is totally innocent of the accusations.

BUT DIDN'T SHE HAVE A TRIAL?

No! Since 1992, persons accused of treason in Peru have had their guilt or innocence and their sentences determined by a hooded military tribunal — a member of the military whose identity is hidden and who most often has not had any legal training. 97% of those charged with treason have been convicted. These tribunals have been repeatedly condemned by human rights groups, the United Nations, and the United States government because they deny the accused any semblance of due process. Lori Berenson was never given written notice of the charges against her, nor meaningful access to a lawyer. She was not allowed to refute alleged evidence or even to know in detail what evidence there was to refute. There was no opportunity to cross examine witnesses. In other words there was no trial.

COMMITTEE TO FREE LORI BERENSON

NEWSLETTER

Winter 1999



**TO ALL OUR FRIENDS AND
SUPPORTERS**

Thank you for all letters, faxes and calls to the White House to remind President Clinton on November 30, that it was three years since Lori's arrest and urging him to secure Lori's release. And thanks also to those who wrote or called on February 4 and 5 urging President Clinton to deliver a strong message to Peruvian President Fujimori who was visiting Washington. We have been told that the White House was inundated with calls and faxes on both of these occasions. We have been told that President Clinton is very aware of and concerned with Lori's situation but did not speak to President Fujimori about it. We now have to work even harder to ensure that he acts to gain justice for Lori.

Many thanks also to those hardy souls who joined us in the freezing cold on January 11 in a vigil outside the White House, commemorating the third anniversary of Lori's sentencing to life in prison.

BULLETIN !

**The United Nations High Commission on
Human Rights Rules Lori is "Arbitrarily
Detained."**

We have just been notified by the office of the United Nations High Commission for Human Rights that after nearly three years of fact-finding, missions to Peru, and a visit with Lori in Yanamayo Prison, the United Nations Working Group on Arbitrary Detention rendered Opinion 26/1998 which states that Lori's case was classified as one in which disrespect for international norms is of such gravity, relative to impartial judgment, in part or in total, that the deprivation of individual liberty must be considered arbitrary in character. It further declares that the Peruvian government is in violation of Articles 8, 9, and 10 of the Universal Declaration of Human Rights and of Articles 9 and 14 of the International Covenant on Civil and Political Rights, to which Peru is signatory, and that Peru must take all necessary steps to remedy this situation.

Prison Conditions

On Wednesday, October 7th Lori was moved from Yanamayo Prison in Puno to Socabaya Prison in Arequipa.

In this prison, which is at 7,600 ft., much lower than the 12,700 ft. of Yanamayo prison, Lori still spends 23 hours each day in a concrete cell without heat or running water and is permitted only one hour of yard time in the sun.

Health

The Peruvian government claimed in October that Lori was moved for medical reasons. However, it was not until February, following another medical evaluation by the International Red Cross and an arrangement by which Lori's family would pay for doctors and medication, that Lori was finally examined and treated by an ophthalmologist and a dermatologist. Lori now has new eyeglasses with a much stronger prescription and is taking medication to ease blood flow through the capillaries in her face and hands. Clogged and broken capillaries were due to circulation problems brought on by the high altitude and severe cold she had endured for three years at Yanamayo Prison. She awaits an examination by a gastroenterologist and throat specialist.

Solitary Confinement Ended After 115 Days

At Socabaya Lori is a maximum security prisoner in a minimum security prison. Upon her arrival Lori was placed in solitary confinement, in a separate wing of the prison where she could not speak with or otherwise have contact with any other prisoners. She remained so from October 7 until January 29 when four other maximum security prisoners were moved from other prisons into Lori's wing of Socabaya prison. This move came after intense efforts made by the International Red Cross, the Catholic Church and two Urgent Actions issued on Lori's behalf by Amnesty International. Lori now spends her one hour yard time with these four women and can speak with them from cell to cell.

OAS Case Continues

On October 8 Lori's lawyers made an oral presentation before the Inter-American Commission on Human Rights of the Organization of American States pointing out the total lack of due process in the military tribunal system that sentenced Lori and asked them to hear Lori's petition. In December, the Commission ruled that the petition is admissible and a hearing will be scheduled for their Fall 1999 session.

In the Congressional Record

Senator Paul Wellstone, Minnesota, placed an official statement into the Congressional Record on February 4th (page S1286) on the "Human Rights Situation in Peru" and emphasized the mistreatment of Lori.

NEW WEBSITE

www.freelori.org

LORI'S OWN WORDS

The following is an English translation of the letter Lori hand wrote in Spanish.
(A copy of the original can be provided upon request.)

Yanamayo, Peru
August 22, 1998

Members of the Community
of Organizations
for Human Rights

Esteemed Men and Women:

Through this communication permit me to congratulate you on your important work for human rights.

I would like to inform you of some details about me and my case.

As you know, I have been confined for more than two and a half years at the Yanamayo maximum security military prison, accused of being a member of the MRTA, and fulfilling the sentence of life imprisonment dictated by a faceless military tribunal.

I have never been a member of the MRTA; I have never participated in the planning of a violent act, neither with the MRTA nor anybody else; neither have I ever promoted violence, and, what is more, I do not believe in violence and it would not be possible for me to participate in violence. —

I do believe in ideals of justice and equality; to share the ideals of a more just world for the poor majority does not imply that I share in the use of violence to achieve such goals.

In my own way, I have worked for these ideals. In Peru, I sought to learn about and find ways to help the most poor and oppressed people. I met with, observed, and studied these people, including their history, their culture, their music. I also tried to observe how the government, the law, and the economically powerful treated the poor. I was writing about what I experienced and learned and I had legitimate journalistic credentials from two U.S. publications. I hoped to be able to help the situation of human rights and social justice for the most poor; I still believe in that, and I believe it will happen.

Certainly, I have not had real justice. I am completely innocent of the horrendous charges made against me, and there could not be real evidence that shows such crimes.

I hope that these details might give you a better basis to facilitate an understanding of my situation and, at the same time, I turn to reiterate my greatest respect and admiration for your important works for the good of humanity.

With much respect,

Lori Berenson

WHAT EFFORTS HAVE BEEN MADE ON LORI BERENSON'S BEHALF?

- **The U.S. State Department** human rights report has repeatedly criticized the Peruvian military tribunals. In particular, a State Department spokesman has expressed governmental concern that "Ms. Berenson was not tried in an open civilian court with rights of legal defense, in accordance with international juridical norms." In May 1996 President Clinton expressed similar concerns to the Peruvian President, Alberto Fujimori. Former President Jimmy Carter, representing the Carter Center for Human Rights, and other human rights groups have also urged a fair trial.
- In December 1997, 180 members of the **House of Representatives** and 55 members of the U.S. **Senate** signed letters to Secretary of State Madeleine Albright urging her to do all within her power to insure that Lori receive immediate due process and justice in Peru.
- In January 1998, Lori Berenson's lawyers filed a petition on her behalf with the **Inter-American Commission on Human Rights of the Organization of American States** against the Government of Peru. The complaint seeks the immediate release, and, only if Peru presents evidence sufficient to charge her, a new and fair trial in a civil court. The complaint also demands immediate improvements (to meet minimal international standards) to inhumane conditions found at Yanamayo and other maximum security military prisons in Peru.
- In April 1998, **Amnesty International** issued a press release noting that Lori Berenson is a political prisoner and criticizing the Peruvian anti-terrorism legislation. They stated "it is unacceptable for hundreds of political prisoners like Lori Berenson not to be able to exercise their basic human right to a fair and public hearing by an independent and impartial tribunal." They emphasized that "Peru continues to mock human rights guarantees with trials that are but a parody of justice."
- In May 1998 **The Committee to Free Lori Berenson** was formed to help organize and coordinate the efforts of individuals and groups across the country. This committee is a project of the Committee for Inter-American Human Rights.
- In December 1998 the **Working Group on Arbitrary Detention of the United Nations Commission on Human Rights** rendered its opinion that Lori Berenson is arbitrarily detained and that the Peruvian government must take all necessary steps to remedy this situation in accordance with international human rights covenants.



Rhoda, Kathy, Lori and
Mark Berenson,
New York City,
Summer 1994

PLEASE HELP LORI BERENSON

- **Write** to the following, asking them to act now to secure justice for Lori Berenson.

President William Clinton

The White House
1600 Pennsylvania Ave. NW
Washington DC 20500

Secretary of State Madeleine Albright

Department of State; 2201 C Street NW
Washington DC 20520

Your Senators

United States Senate
Washington, DC 20510

Your Congressional Representative

United States House of Representatives
Washington, DC 20515

- **Inform** companies that do business with or have investments in Peru about Lori Berenson.
- **Follow** her situation on the Lori Berenson web site:
www.freelori.org/
- **Join** The Committee to Free Lori Berenson

THE COMMITTEE TO FREE LORI BERENSON

320 East 25th Street #2AA • New York, NY 10010
e-mail: marbb@cunym.cuny.edu

file Berenson

THE WHITE HOUSE
WASHINGTON

August 18, 1999

Rhoda and Mark Berenson
320 E. 25th Street
New York, NY 10010

Dear Rhoda & Mark:

Thank you for your letter regarding your daughter who is serving a life sentence in Peru. I can only imagine how difficult her ordeal continues to be for you both.

The President and I share your concerns about Lori's case. My husband has personally raised this issue with President Fujimori, as did his Special Envoy to the Americas, Buddy McKay, when he met with President Fujimori in Lima. Ambassador McKay stressed that our objective continues to be early resolution of this case in a manner that meets our fundamental concerns.

Our consulate in Peru continues to keep in regular contact with Lori, and we have also regularly raised with Peruvian authorities various issues regarding the conditions of Lori's imprisonment.

Please know that we continue to seek a just and expeditious outcome of Lori's case.

Sincerely

Hillary Rodham Clinton

Hillary Rodham Clinton

Rhoda and Mark Berenson
320 East 25th Street
New York, NY 10010
Tel.: 212-689-3868 and Fax: 212-689-9572

June 2, 1999

The Honorable Hillary Rodham Clinton
The First Lady
The White House, 1600 Pennsylvania Avenue
Washington, DC 00000

Dear Mrs. Clinton:

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Sincerely,

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Rhoda and Mark Berenson

Shelton
from
NSC

Berenson Summary

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We are not optimistic about a solution to this case in the short term. Fujimori is currently positioning himself for re-election in April 2000. Much of his public support derives from his successful fight against terrorism. Lori's militant statement at her sentencing, in which she called the guerrillas with whom she is accused of collaborating "revolutionaries" and not "terrorists," has created a widespread perception in the Peruvian public that she had an association with them. Thus, Fujimori has little incentive to act generously in Lori's case. Moreover, there are thousands of Peruvians who were convicted under the same procedures received by Lori. A decision to grant her a new trial or to release her would create a problematic precedent for these other cases.

We also have limited leverage over Fujimori, particularly given his overriding domestic political interest in maintaining a hard line against terrorists. Moreover, any threats we might make, (such as curtailing counternarcotics assistance or aid to the poor) would compromise other important U.S. interests.

We believe our best hope for obtaining justice in Lori's case lies after the April elections. If Fujimori runs and is re-elected (which we currently expect), he will not have the same

strong political interest in maintaining a hard line in Lori's case. If he is not re-elected, we may have a chance of striking a deal with a new leader.

In the interim, we should lay the basis for some sort of post-election deal such as the one described above (e.g., a reduction of sentence in exchange for Lori's transfer) and seek to mitigate legitimate complaints Lori may have about the conditions under which she is being held.

- 8/18/00 from **Len Strickman**, thanking you for taking time to meet with Mark, Rhoda and Kathy Berenson about Lori's situation in Peru. They were impressed with your knowledge of the case and your sensitivity to its complex difficulties. Hope the President will be able to help achieve some justice. Give 'me hell in NY.

✓

To

File; NRN

Melanne

for followup

Berenson

18 August 2000

Dear Hillary,

I am most grateful for your taking the time to meet with Mark, Rhoda and Kathy Berenson about Joni's terrible situation in Peru. They were very impressed and pleased with your knowledge of the case and your sensitivity to all its complex difficulties.

Here's hoping the President will be able to help achieve some justice by the end of the year.

Give 'em hell in New York. Best,
Jon Huckman

PHOTOCOPY
PRESERVATION



RECEIVED
WHITE HOUSE MAIL SECTION

200 AUG 21 PM 2:11

Mrs. Hillary Rodham Clinton
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500-2000

20300/2000



University of Arkansas
School of Law
Robert A. Lefflar Law Center
Fayetteville, Arkansas 72701

PHOTOCOPY
PRESERVATION

file

LORI BERENSON CASE

August 28, 2000

CONTEXT: *Today, August 28, the Peruvian military court announced that it had vacated its judgment against U.S. citizen Lori Berenson, who was convicted of treason and sentenced to life in prison in January, 1996. By formal letter to the national prosecutor's office, the military court has transferred her case to the civilian court system for further proceedings. The decision by the military tribunal was taken in response to a petition filed by Ms. Berenson last fall, asserting that she was not a leader of the Tupac Amaru Revolutionary Movement, or MRTA, and that therefore the military court lacked jurisdiction over her case. She remains in prison in Peru while awaiting disposition of civilian proceedings against her.*

What is your reaction to today's developments in the Lori Berenson case?

- We are very pleased with the decision by the military court. Since Ms. Berenson's conviction nearly five years ago, we have maintained that the trial proceedings against her did not meet due process standards, and so we welcome the court's decision today.

IF ASKED: **What happens next? Will she be charged with terrorism or a related crime in civilian court? How long will she remain in prison?**

- We understand that the case has been transferred to the national prosecutor's office, and that they will determine the appropriate next steps.
- Ms. Berenson remains in prison in Peru.

How can she get a fair trial in Peru when the annual State Department human rights report indicates that a fair trial is not possible?

- With the Organization of American States and our partners throughout the hemisphere, we continue to press the Government of Peru to undertake serious reforms to ensure democratization and transparency in Peruvian institutions.
- As the State Department report indicates, there remain serious concerns about the openness and fairness of trial proceedings in the military court and in cases related to terrorism in the civilian courts.
- The action by the military court is a welcome first step. We hope that this matter will be resolved fairly and expeditiously.

Many members of Congress have signed a letter to the President, urging him to press the Government of Peru to release Ms. Berenson. Do you support her release?

- As I said, we will continue to engage the Government of Peru regarding our desire to see a just and expeditious resolution of this case.

Do you think she is guilty or innocent?

- We take no position on her guilt or innocence, but we have maintained since her trial in 1996 that the proceedings against her did not meet due process standards. We will continue to express our concerns regarding this matter to the Government of Peru, as well as our hope for a just and expeditious resolution.

Is the Peruvian government acting on the Berenson case now in order to get back in your good graces following the flawed election?

- We welcome today's development in this legal matter. Our concerns about Peruvian democracy remain unchanged. With the Organization of American States and our partners throughout the hemisphere, we continue to press the Government of Peru to undertake serious reforms to ensure democratization and transparency in Peru's institutions.

ONLY IF ASKED: On what basis did the military tribunal vacate its judgment and sentence?

- As the court's decision indicates, it reviewed a petition filed by Lori Berenson and determined that her conviction and sentence should be vacated and that the case should be transferred to civilian court.

ONLY IF ASKED: Did the court have new evidence?

- This matter was handled by the Peruvian military court. It would be inappropriate for us to comment on what evidence they may have weighed in reaching this decision.

Looking for a Mutual Fund?

FEATURE STORY

September 4/11, 2000

The Lori Berenson Papers

On January 11, 1996, a young American woman was sentenced to life in prison in Peru for treason. Now documents have surfaced that shed new light on her case.

by JONATHAN LEVI and LIZ MINEO

 [E-mail this story to a friend.](#)

The house at No. 1049 Alameda del Corregidor fits in well with the rest of Lima's upper-middle-class neighborhood of La Molina. Partially screened from the street by a pair of olive trees, with a large garage and four floors on a plot of 500 square meters, the house is big enough to hold, say, a childcare center or a college-prep outfit, as it has for the past few years. Only a few bullet holes in the stucco bear witness to the fiery events of November 30, 1995. On that night, members of the DINCOTE, Peru's antiterrorism police force, fought a pitched battle with the inhabitants of the house. By morning, one person was dead, three critically wounded, four hostages rescued and twenty-one purported members of the Movimiento Revolucionario Túpac Amaru (MRTA) arrested. The prize catch was one of Peru's Most Wanted--Miguel Rincón Rincón, second in command of the MRTA, one of Peru's two armed guerrilla organizations.

Several other suspected associates were brought into the DINCOTE headquarters that night in a general roundup from other parts of Lima, including a middle-aged Panamanian and a young American woman. Within six weeks of her arrest, 26-year-old Lori Berenson would find herself center stage in one of the most heavily marketed terrorism trials of the year. Accused of "treason against the fatherland," of participating in a plot to attack the Peruvian Congress with a guerrilla organization, of transporting weapons and instructing militants, Berenson was convicted based on secret evidence by a panel of hooded military judges (in the manner prescribed by Peru's draconian 1992 antiterrorism law) and sentenced on January 11, 1996, to life in prison.

During the nearly five years of her incarceration, much has been written in the United States about Lori Berenson, on how the daughter of liberal, academic parents turned a youthful concern for social justice into a committed passion. Although there have been some reports focusing on Berenson's work with leftist organizations in Central America, little is known about the circumstances of her arrest in Peru. To many of her US supporters, Berenson's story features a good-hearted pacifist who makes a naïve wrong turn and finds herself the victim of a deeply unfair justice system.

But mention the name Lori Berenson to Peruvians, and the face most of them see in their minds is the one that appeared on their television sets on January 8, 1996, when she was presented to the press by the police, making her first public statement since her arrest. It was less what she said, defending the MRTA, than how she said it, her voice defiant, her

eyes blazing. For most ordinary Peruvians, too exhausted after fifteen years of warfare to distinguish between sympathizers, guerrillas and terrorists, the contempt in that face was enough to convince them that Berenson was guilty. Of what, they didn't much care. In their version of the story, she is a Beauty who slouches from New York to Latin America, only to turn into a terrorist Beast, eyes wide open.

* * *

Now, documents have surfaced that shed light on Lori Berenson's case. These papers, never before seen by the public but obtained by The Nation in collaboration with Peruvian journalists, include a 100-page transcript of the police investigation of Berenson and her co-defendants (called "Atestado Nro. 140--DIVICOTE II-DINCOTE"), and Berenson's signed fifteen-page interrogation. Together they appear to compose the DINCOTE's complete record of her case (minus the exhibits), which, as in all cases of terrorism in Peru, has been unavailable even to her lawyers.

The story that emerges from the documents is one of unusually hasty police surveillance, negligent interrogation and reckless reliance on one witness whose testimony was neither challenged nor corroborated. The documents give a crude demonstration of how hyperinflation can be applied to a police charge, raising Berenson, in its final pages, from the obscurity of a minor suspect to the limelight of a major leader of the MRTA. At the same time, there are troubling discrepancies between Berenson's own account, as it appears in the documents, and other available evidence.

Berenson's parents and her US lawyer, former Attorney General Ramsey Clark, question the authenticity of these records. They argue, further, that since they were unable to cross-examine witnesses, it is impossible to know whether the statements of those witnesses were coerced. Nevertheless, sources intimately familiar with the workings of the DINCOTE--including Berenson's Peruvian lawyer, Grimaldo Achahui, who was present during her interrogation--believe the documents to be genuine. As such, the new information is a significant addition to an understanding of how the DINCOTE built its case against Lori Berenson.

The charges hinge on the testimony of Pacifico Castellón, a man with whom she shared a house in Lima and whom she identifies in the transcripts as her *conviviente*, usually translated into English as "lover." All accounts agree that in November 1994, almost a year before the police operation in La Molina, Lori Berenson met Castellón, a Panamanian twenty years her senior, at the airport in Panama City, where they were both preparing to board a plane to Quito, Ecuador.

The genesis of that encounter, and its aftermath, are matters of dispute. Berenson's parents say that Lori has always denied a romantic relationship with Castellón. Although she was not allowed to be interviewed directly for this article, she recently offered the following account: "I have never, ever, ever been or signed any document stating that Mr. Castellón had been at any moment my significant other, lover, and much less *conviviente*," she said. She explained that an unnamed acquaintance in New York, who knew that she wanted to go to Peru, had recommended Castellón as a traveling companion.

According to other sources, however, a romance blossomed soon after their meeting at the Panama airport, a meeting that Castellón claimed was carefully orchestrated by the MRTA. In the Atestado, he tells a tale of shadowy Peruvians and Panamanians who hired him both as an architect and an escort. It was in Quito, Castellón says, that Berenson spoke with Néstor Cerpa, then the leader of the MRTA, and a woman they called Ysabel. That was the first time, he stated, that he heard of the MRTA.

* * *

The MRTA, a traditional Latin American Marxist guerrilla organization, was significantly smaller and less complex in structure than the more ruthless Sendero Luminoso (Shining Path), which took its ideology from Mao and fought a war of terror with the Peruvian government from 1980 through the capture of its messianic leader, Abimael Guzmán, in 1992. The MRTA had been known for much of its career, more for its theatrical escapades—distributing free food in shantytowns and breaking out of prison—than for its few dozen killings and kidnappings. Jeremy Bigwood, a war photojournalist who has covered armed conflicts in Central America since the eighties, spent considerable time in Peru with the MRTA while represented by Gamma Liaison. "They were extremely pleasant people," Bigwood says, "but much less competent than [El Salvador's] FMLN. I call them The Gang That Can't Shoot Straight. One time, two of the MRTA leaders were walking along the street and saw an old man pushing a car that had broken down. They had just helped him get the car in front of a bank, when the old man ran away. Suddenly it hit them--the man was a member of Sendero, and they had been helping him push a car bomb!"

In 1990, the MRTA had its biggest publicity coup, digging a tunnel into Miguel Castro prison on the outskirts of Lima and freeing, among many others, its top leader, Victor Polay Campos. But the kidnappings of several businessmen turned public sentiment against the MRTA, especially when, in early 1993, the dead body of David Ballón, once a robust 200-pounder, was found emaciated. Quickly the heroic aura evaporated as the need for cash morphed the image of the MRTA from a band of Merry Men (and Women) into a gang of common kidnappers who associated with drug dealers.

It was during this period, according to the police transcripts, that Lori Berenson had her first contact with the MRTA. After the alleged meeting with Cerpa in Quito and a brief sojourn in Ecuador, Castellón and Berenson decided to take a bus to Lima. A short stay in two hotels finally led them to rent a house, one month after their arrival, in La Molina; Castellón signed the lease. "We rented a big house to be able to receive guests," Berenson says in her testimony.

Castrellón told the police that in January of 1995, Ysabel put them in touch with a man the DINCOTE wanted almost as badly as it wanted Cerpa--Miguel Rincón. Rincón moved into the house. Then, according to the transcripts, the Castellón/Berenson relationship ended, although both continued to live there (in August Berenson rented an apartment in the less-well-heeled district of San Borja). "After my separation [from Castellón], I continued living in that place [La Molina]," says Berenson's testimony. Soon another woman, called Francis, arrived. Castellón slept next to the garage, while Berenson, Francis and Rincón had rooms on the third floor. The pecking order, Castellón said, was clear: With money from Rincón, Berenson bought a computer to which only she, Francis and Rincón had the password. Castellón was relegated to the role of chauffeur.

In March, Castellón began picking up young MRTA militants and installing them on the fourth floor, where they received political and military instruction. Occasionally, Cerpa himself came to the house, Castellón told the police. Castellón said he was forbidden to touch the computers, speak with people on the fourth floor, enter the fourth floor without wearing a hood that covered his face (he said this was also a requirement for Berenson, with whom he occasionally served meals to the top-floor guests) or enter the third-floor rooms at all. Berenson, he claimed, wrote on the computer, cooked and served.

Castrellón also reported that he constructed a model of the Peruvian Congress based on information provided by Berenson.

Castrellón's testimony not only contributed to Berenson's arrest but was used by police to foster the Peruvian myth of her as an international terrorist. "Castrellón was still in love with Lori," recalls a former MRTA member who shared a prison cell with Castrellón in 1998. "He was sad and bitter."

* * *

Berenson's account in the transcript differs starkly from Castrellón's. She denies meeting Cerpa, either in Ecuador or Peru. She identifies herself as a journalist. She recognizes none of the fourth-floor inhabitants and says she had no idea there were arms and ammunition in the house, as Castrellón claimed she did. She denies ever having seen the pair of army uniforms the police found in her closet in San Borja or the four scraps of paper bearing cryptic computer passwords and notes like "20 long ones, 2 short ones." Above all, she denies being a member of the MRTA.

Since her imprisonment, Berenson has continued to protest her innocence, as have her parents. "President [Alberto] Fujimori has micromanaged Lori's case since the day of her arrest, when he waved her American passport on television," Rhoda Berenson says. She not only doubts the authenticity of the documents but insists that journalists could not have obtained them without Fujimori's knowledge. After five years of watching elements of the Peruvian police, government and press attack their daughter as everything from an arms dealer to an assassin, the Berensons' skepticism is understandable.

But Grimaldo Achahui, Berenson's Peruvian lawyer, who was present during her eleven-hour interrogation and was shown the DINCOTE documents, believes they faithfully represent the questions of the police and Berenson's answers. Achahui attests to the authenticity of both his and Berenson's signatures on the testimony and his memory of the interrogation, and says he did not witness any coercion. When asked about the relationship between Berenson and Castrellón, Achahui verified Berenson's use of the word conviviente. "Of course," Achahui said, "she could have misinterpreted the word to mean 'housemate.'"

* * *

So which Lori is the real Lori? The Lori who innocently traveled with an older companion to Peru, or the Lori of the ramparts, who led a man she had just met down a revolutionary path? The evidence doesn't support either view. Castrellón's portrayal of her as a ringleader is uncorroborated, and he may have had ulterior motives, including the reduction of his own sentence (he is currently serving a thirty-year sentence in Lima's Castro Castro prison); yet the story Berenson tells in the transcripts raises serious questions. First, there is the issue of her occupation. Her press passes were real, if the ink on them barely dry. It had been only two months since she had received letters from the small, progressive magazines *Third World Viewpoint* and *Modern Times* identifying her as a correspondent, and she had yet to publish any articles in them. Second, there is the question of how she could live in a house with fifteen other people and not be able to identify a single one: "I knew there were people upstairs," she says in her deposition. "I don't know who let them in. Although I used the kitchen, I never noticed anyone preparing a large quantity of food." Many of the fifteen supported Berenson's story, saying they had never met her. Two of those arrested, however, identified her as the woman who served them meals, although they also said she was wearing a hood that was supposed to conceal her face. Francis, a 30-year-old veteran of the MRTA, claims in the Atestado that Berenson, along with Castrellón, served as the "fronts" for the house in La Molina.

As for Rincón, Berenson said that although she had seen him living in the La Molina house and knew that he was linked to the MRTA, she never knew his name. "I used to call him *compañero*," she said. She said in her statement that all she knew about the MRTA was what the four letters stood for, and that she did not know it was a terrorist group. Yet a month later, when presented to the press, she stated that "in the MRTA there are no criminal terrorists. It is a revolutionary movement." The police inventory of arms found in the house included seven automatic rifles with over 8,000 rounds of ammunition, 100 hand grenades and more than 2,000 sticks of dynamite. When asked how this cache of weapons, along with forged documents bearing her photo, ended up in the La Molina house, which Berenson told police was still one of her two residences, she said, "I have no idea."

These issues made it problematic for Berenson's natural allies to come to her defense. The US Embassy presented her parents with several unenviable choices for lawyers. At the time, the Berensons were delighted with Achahui--especially Lori, who, her parents report, was thrilled at the choice of an "indigenous" lawyer who had represented many people accused of terrorism. It was only later that they learned that Achahui had never won a case, and moreover had represented MRTA leader Victor Polay, an association that they did not believe would help their daughter. (Achahui continues to represent Berenson, although he is not as active as he once was.) The Committee to Protect Journalists, which had successfully sprung Jeremy Bigwood when he was arrested for photographing the MRTA, found it difficult to make more than a token protest on behalf of a woman who had yet to publish a single piece of journalism. And Berenson's emotional statement to the press, broadcast repeatedly over the Peruvian and international airwaves, made her appear to be a committed sympathizer of a guerrilla organization. For these reasons, her fate turned out to be considerably different from that of Italian journalist Gabriela Guarino, who came to Peru in 1994 to shoot a documentary film on the MRTA and wound up carrying the baby of a regional MRTA leader. "There was more hard evidence against Gabriela," one former MRTA member says, "than there ever was against Lori." Yet just two months before Berenson's arrest, Guarino was expelled from Peru after serving only seventeen months in prison. "The difference," the former MRTA member says, "was that Gabriela claimed that she was innocent. But when you saw Lori on TV you thought--this is a terrorist."

* * *

While the DINCOTE documents paint an incomplete portrait of Berenson's role, they clearly demonstrate irregularities in the police surveillance and investigation. Although the accepted period of police observation at DINCOTE was at least two weeks, the Atestado shows that the surveillance at La Molina lasted less than twelve hours.

At 9 am on November 30, the day of the police assault, a member of the DINCOTE, in a routine surveillance operation, saw Miguel Rincón. Excited, he followed Rincón as Castellón drove him back to the house at La Molina. When Castellón pulled out of the garage at 4 o'clock that afternoon, his passenger, Lori Berenson, made her inaugural blip on the DINCOTE's radar screen. Castellón dropped her off at a shopping center. One surveillance team followed him, another trailed her. After Berenson met a woman whom she had hired as a photographer (a woman she knew as Rosa Mita Calle but who was, in fact, Nancy Gilvonio, the wife of Néstor Cerpa), both women headed downtown to the Congress. At 6:30, the police arrested Castellón.

In only a few minutes he presented them with a long and complicated story. "He indicated," the report says, "that the house served as a meeting place for the MRTA and that there was a group of approximately fifteen people, some of whom were armed, a fact

that indicated that it was a base for this terrorist organization." Half an hour later, the team tracking Berenson and Gilvonio confronted them on the public bus they were riding. "Then they drove us to this police station," Berenson testified, "without telling us a thing.... A man came up to me and identified himself as a captain and after I asked told me I was in the custody of the DINCOTE." At 8:30 pm the attack on No. 1049 Alameda del Corregidor began. "There was no intelligence operation," said Col. Benedicto Jiménez in a recent interview. Jiménez, in a 1992 DINCOTE operation etched into the Peruvian consciousness, captured Sendero's leader, Abimael Guzmán, without any casualties after two years of intelligence work. In La Molina, he says, "They came, they saw and they attacked."

* * *

The operation may have been rushed simply because of pressure to make a quick arrest of Rincón, who had slipped past the police before. But another factor has now become clear, based on interviews with several top antiterrorist police officials: The DINCOTE's commanding officer, Gen. Carlos Domínguez, needed to deflect attention from a spiraling scandal. Just nine days before the La Molina operation, the police had been forced to admit publicly that seven police generals, including Domínguez, were living in luxurious houses and apartments confiscated from convicted drug traffickers. The scandal not only cost Domínguez a fifteenth-floor beachfront acie in the fashionable district of Miraflores, it also threatened his career. He turned to his subcommanders. They told him they were searching for Rincón. "He said, 'OK,'" one of them remembers, "Drop everything else and get me Rincón."

"There was tremendous political pressure in the Rincón case that didn't exist when I was pursuing Guzmán," said Benedicto Jiménez. "The reputation of the police was in question.... Circumstances contrived to accelerate the operation," he says dryly. One year later, Domínguez felt the irony of his haste. On December 17, 1996, Domínguez and Gen. Máximo Rivera, the new head of the DINCOTE, were taken hostage along with more than 400 others when Néstor Cerpa and thirteen MRTA militants seized the Japanese ambassador's residence in Lima. "Cerpa told Domínguez," Rivera recalls, "General, if you had waited two more days, you would have arrested all of us who are here, because we were due to arrive at the house in La Molina." (Cerpa and the other militants were killed when, on April 22, 1997, government forces stormed the residence and freed the hostages.)

Hasty surveillance was followed by sloppy investigation after the La Molina arrests. The main charge against Berenson--"treason against the fatherland"--was based on the theory that her press access aided the plot to take over Congress. Yet according to the transcript, the police asked her only two questions related to Congress--to identify who took some photographs of congressmen (she couldn't) and to admit that a list of congressmen was in her handwriting (she wouldn't).

Said Rincón in his statement, "There were no concrete operative plans for the taking of the Congress," although he conceded later that "it was a goal for the near future" in order to create the conditions for an end to the armed conflict and to obtain the release of MRTA prisoners. The most detailed discussion of the MRTA plan appears on page 80 of the 100-page Atestado and charges Cerpa with meeting with Rincón, Gilvonio, Berenson and Castrellón "with the goal of directing and supervising the plans and tasks related to the attack on the Congress." Although Rincón concedes that Cerpa came to the house, he says nothing about any such meeting. Two additional charges against Berenson materialize only toward the end of the police document. One is the accusation of moving weapons, although the only support for this is Castrellón's statement that Berenson helped him transfer closed sacks from his van to the house. Another is that she was a political and tactical instructor for the combatants in the La Molina house; the only proof

offered is a drawing of escape routes for the house, but again, there is no evidence that the drawing is Berenson's.

* * *

The past five years have seen some activity around Berenson's case, to little effect. The government of President Alberto Fujimori has continued to insist that she was convicted and sentenced properly. When the Inter-American Court of Human Rights called for a retrial of four Chilean members of the MRTA, Fujimori simply pulled Peru out of the court's jurisdiction, and Berenson's pending case with the court was left in limbo. While Berenson's parents have lobbied vocally to bring US government pressure to bear for her release, the US Embassy in Lima claims that it has been toiling quietly. "A number of people were working for a very long time to find a way out of the Berenson case," an international businessman says. "I think they had gotten quite close to a solution that would have permitted Lori to be expelled from Peru." Then a couple of factors intervened. One was "the strong response the US was forced to make to the blatant manipulation of the electoral process," a reference to the massive irregularities leading up to the recent elections, in which Fujimori won a third term after a dubious constitutional ruling in 1996 permitted him to run again. The other was a comment by opposition presidential candidate Alejandro Toledo, a Stanford-educated economist. In New York on April 28, Toledo said that he was "going to look seriously at [Berenson's] case." The response back in Lima from certain members of the Fujimori campaign was instantaneous and harsh--Toledo is soft on terrorism, they charged. "In twenty-four hours," the businessman says, "what had been very painstakingly achieved over months went out the window, when the government came out with its strongest terms, and said 'Never!'"

Toledo boycotted the runoff in protest against the undemocratic nature of the electoral process. The Organization of American States has since put some pressure on Fujimori's government to undertake democratic reforms. Yet while anti-Fujimori demonstrations took place in Lima and other cities around his inauguration on July 28, with the armed forces and most of the media securely in Fujimori's corner, those protests were insufficient to loosen his grip on power.

Nevertheless, the newfound willingness of DINCOTE officials to question the accuracy of the charges against Berenson is itself an indication of how the country has recovered, over the past five years, from the nightmare of terrorism and backlash that once stifled debate. The reliance on Castellón's testimony and the circumstances surrounding the collection of evidence warrant, at the very least, further investigation. Benedicto Jiménez believes that Berenson was fronting for the MRTA and finds it difficult to imagine that she didn't know about the arms. "But the charge of treason," he says, "should only be applied if you are a leader, which she was not; or if you were a longtime activist, which she was not; or if you have participated in military actions, which she had not. She should have been charged with apology for terrorism, which carries a sentence of six to twelve years." It is an opinion echoed by many, including Berenson's lawyer, Achahui.

While some, including her parents and Clark, worry that the Fujimori government might drop the charge of treason against Berenson only to retry her on a new charge, "collaboration with terrorism," which carries a sentence of twenty years. Achahui believes a prosecutor would have a difficult time proving collaboration, which implies a "conscious and voluntary role in the organization." "Apology for terrorism is the more likely charge," says Achahui, "based primarily on her statement to the press," a statement, the Berensons claim, that came after Lori had been held for days in a dark cell listening to the moans of Francis, who was lying bleeding from her bullet wounds only a few feet away.

Berenson is in the fifth year of her imprisonment, in Socabaya prison, located in a poor neighborhood outside Peru's most beautiful city, Arequipa. Neither she nor her lawyers have been given a chance to rebut the charges in the DINCOTE documents. No journalist, foreign or Peruvian, been granted access to her since her imprisonment--standard Peruvian treatment for prisoners charged with terrorism. Isolated in the maximum-security unit, Berenson is nonetheless a favorite among the 100-odd minimum-security prisoners, making birthday cards for the women and passing along vitamins to the few young children who live there with their mothers. She has been nominated as *madrina* of their volleyball team, although she is not allowed to play. In classical tragedy, the quality that makes a heroine great leads equally to her fall. Berenson may have reversed the process--she seems to be translating her fall into a theatrical grandeur.

Rhoda Berenson recoils at the thought. "Lori has always been a very private person," she says. "She can't wait to go back to being anonymous." A clear presentation of the facts of her case may give her the chance to return to her former anonymity and free her, the United States and Peru from that grandeur.

E-mail this story to a friend.

Jonathan Levi, a co-founder of Granta, is the author of A Guide for the Perplexed (Turtle Bay). Liz Mineo was an investigative reporter for Lima's El Comercio before moving to the United States. Research support: the Investigative Fund of the Nation Institute. Additional reporting: Edmundo Cruz.

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August 11, 2000

Hillary Rodham Clinton
The White House
1600 Pennsylvania Avenue, NW
Washington D.C. 20500

Dear Mrs. Clinton:

Mark, Kathy, and I want to thank you for meeting with us on Wednesday. We were very impressed with your knowledge of Lori's case and are very grateful for your deep concern for Lori's well being and your commitment to help. I certainly sensed that as a mother you understood what these past four years and eight months have been like for my family and me.

Knowing your busy schedule, we especially appreciate the generous time you granted us. We hope that you will be able to write to Lori. We know that such a letter from you would greatly lift her spirits.

Sincerely,



Rhoda Berenson