

Human Rights Court Reviews Berenson Case

BY ROBERT GOODIER

Tico Times Staff

NINE years in Peruvian prisons have yielded U.S. citizen Lori Berenson the opportunity for representation in a case before the Inter-American Court of Human Rights in San José.

Decrying an anti-terrorism law he called "totalitarian," former U.S. Attorney General Ramsey Clark, together with attorney Thomas Nooter, argued for Berenson's freedom and amends for damages last week before the court.

Berenson, a 34-year-old New York native, was arrested in 1995 on a public bus in Lima, Peru, and charged with leading the militant rebel group the Tupac Amaru Revolutionary Movement (MRTA).

She was accused of posing as a journalist to plan an attack on the Congress, to which she responded that she was a freelance journalist for two New York publications and was not a member of MRTA.

A military tribunal convicted Berenson under anti-terrorist legislation passed three years prior by then-President Alberto Fujimori to control government opposition. She was convicted of treason and sentenced to life in prison.

Pressured by human-rights organizations such as Amnesty International and movements built around her case in the United States and elsewhere, Berenson was given another trial in a civilian court.

She was found guilty again and sentenced to 20 years in prison. She has been shuffled through four prisons to date, landing finally in the Huacariz Prison in Cajamarca at an altitude of 9,000 feet. She spent months in isolation and on one occasion, according to the Free Lori Web site, was beaten, tear-gassed and sexually molested.

High altitudes and extreme cold have taken a toll on her health, and her supporters say she has suffered chronic strep throat, gastrointestinal problems and arthritis, among other sicknesses.

IN 2002, the Inter-American Commis-

sion on Human Rights in Washington, D.C., denounced both the military and the civilian trials, declaring them illegal by international standards, and called the prison conditions inhumane.

The commission said Peru did not grant Berenson her right to due process and failed to demonstrate evidence against her. The commission requested that her rights be restored and that the government amend its anti-terrorism laws.

When the country disputed the request, the commission referred the case to the Inter-American Court.

Mark and Rhoda Berenson, Lori's parents, traveled to Costa Rica to attend the hearing last week and told The Tico Times that both the arrest and the second trial were politically motivated, used to bolster the public opinion of ex-President Fujimori.

Touting it as a feather in his cap, Fujimori waved Berenson's passport in front of television cameras after her arrest and declared that a U.S. citizen would receive Peruvian justice, Berenson's father said.

LATER, Peruvian newspaper headlines quoted Alejandro Toledo, who went on to become President of Peru, as saying that Berenson's re-trial, which took effect after Fujimori was reelected, was a "smokescreen" to deflect attention from an arms scandal in which Fujimori and his administration were immersed at the time.

Toledo, however, now defends the trial, saying that Berenson was given her right to due process, according to the New York-based Village Voice newspaper.

"How could Lori's trial have had due process when these laws were begun by Fujimori for the evil purpose of putting all opposition in jail?" Mr. Berenson asked last week. "Democracy requires justice and just laws and requires Peru to change these laws."

CLARK told The Tico Times during his stay in Costa Rica last week that the crux of the commission's argument is the legality of the Fujimori laws.

"(Fujimori) suspended the Constitution and wrote a law to fight government opposition... It's totalitarian. A democratic soci-



SEEKING freedom for their daughter: Mark and Rhoda Berenson traveled to Costa Rica to attend the hearing.

Tico Times/Robert Goodier

ety should never tolerate such a law to arrest anybody and not say why," he said.

The law's definition of terrorism is so murky, he added, that it is impossible to know what is legal and what is not.

He said it "would be tragic if a court created to protect human rights in the hemisphere would validate this law. It would happen only in a climate of fear of terrorism."

Clark linked the Peruvian government's reluctance to modify the law to the U.S. war on terrorism and U.S. President George Bush's anti-terrorism policies.

Anti-terrorism laws such as Peru's are being considered throughout Latin America as a means of controlling opposition to government, he said.

JUAN Pablo Barragán, an Ecuadoran citizen and coordinator of a signature campaign for Berenson, has rounded up the support of several human-rights organizations and two Nobel Peace Prize winners for ridding the Americas of such policies.

The signatures are attached to an *amicus curiae* (friend of the court) brief presented to

the San José-based court, and include the names of representatives of lawyers' unions, human rights and support groups.

"Terrorism has been a great excuse to repress, shut down and control people," Barragán said.

AN excerpt of the brief states, "Since the terrorist attacks of Sept. 11, 2001, ... in New York... the so-called 'war on terrorism' of the United States has not only created... radical laws and procedures, but has... pressured members of the OAS (Organization of American States), especially Colombia, to create similar legislation. These facts and reactions represent a serious threat to human rights."

Clark said he expects Peru will abide by the Inter-American Court's ruling, expected in the coming months.

Although Peru rejected a ruling from the Inter-American Court of Human Rights on a different case in 1999, current President Toledo has agreed to abide by the upcoming decision on the Berenson case, according to Clark.

Former U.S. Official Defends Rights

BY ROBERT GOODIER

Tico Times Staff

HEFTING an array of legal successes and spurred social movements under his belt, former U.S. Attorney General Ramsey Clark commands attention when he disparages U.S. foreign policy.

He granted The Tico Times an interview earlier this month at the Apartotel Los Yoses in San José, where he stayed between hearings on the Lori Berenson vs. Perú case before the Inter-American Court of Human Rights (see separate story).

Clark, who served under U.S. President Lyndon B. Johnson, quickly linked the preservation of former President of Perú Alberto Fujimori's anti-terrorism laws with a policy of U.S. President George W. Bush that encourages other countries to adopt certain anti-terrorism legislation.

"The law that Lori was convicted under - if you want to call it a law, to me, it's not a law - is totalitarian... It would (be upheld) only in a climate of fear of terrorism," he said.

Perú should not uphold decisions made under those laws, he added.

AS a country, "you try to modify so you don't lose friends. That's the problem of the United States," he said, criticizing the country's failure to modify its foreign policy.

"The United States does not subscribe to the Inter-American Convention of Human



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RIGHTS expert Clark: U.S. on wrong track.

Rights. It wants to be above the law.

"The U.S. invasion of Iraq was a clear criminal violation of international law. It was a supreme violation as defined by the Nuremberg Tribunal, a war of aggression in which two countries are at peace, neither is under the threat of attack, and one invades the other."

He is confident, however, that the United States will someday ratify the International Criminal Court, which it has thus far avoided - even sabotaged, according to Clark.

HE said the United States has committed a wide range of international

crimes. U.S. missile strikes on vehicles or places that are suspected to contain alleged criminals have not only murdered people who were not given proper trials, he said, but have murdered those who accompanied them.

"Then other countries copy those policies, Israel does it against Hamas and it proliferates..."

"There have been tens of thousands of Iraqi deaths in this war, there is violence every day."

"THEN you find that we're imprisoning lots of people and holding them without charges. (The U.S. Naval Base in) Guantanamo (TT, May 7) has to be an extreme violation of human rights. Now we grab people wherever we grab them, and their families don't know where they are."

"You finally find something that's almost a form of sickness - prisoners abused almost for the gratification of the prison guards. They're saying (to the prisoners) 'I think you're disgusting so I'll make you disgusting.' You don't take pictures for an interrogation."

"It's for the guards' gratification, like child molesters who take pictures of their crimes. You have that psychology set in, so can you conceive that it is limited to the handful of soldiers in prisons?"

FOR news, opinions and calls for action regarding human-rights issues, see the Web site for the International Action Center, founded by Clark, at www.iacenter.org

Human Rights Court to Rule on C.R. Press Case

FOR the first time in the 25-year history of the San José-based Inter-American Court of Human Rights, it will judge the government of Costa Rica.

Earlier this month, the state took the defendant's seat and began to fend off accusations of the repression of one journalist's freedom of expression.

Mauricio Herrera, journalist for the daily La Nación, was sentenced by a Costa Rican court to pay fines for the defamation of former Costa Rican diplomat Félix Przedborski through a series of articles he published in that paper (TT, Feb. 2, March 2, 2001).

Herrera has asked the Human Rights Court to annul the verdict of the criminal suit against him and the paper. He regards the sentence as pernicious, stigmatizing, and a generator of self-censorship among journalists, La Nación reported.

"(The sentence) seems to me an indignation and a humiliation for a country that calls itself a defender of human rights," Herrera told La Nación.

The Costa Rican court had fined Herrera the equivalent of three months wages and the newspaper €60 million (about \$200,000 at the time) (TT, April 2, 2004).

The trial date fell just before World Press Freedom Day, May 3, in which journalists around the world expressed solidarity with their imprisoned colleagues, mourned those killed and celebrated the freedom of the press wherever it is in force.