

organizations. The commission also issued several recommendations to the Mexican government related to its handling of specific human rights cases.

### European Union

The first Mexico-European Union summit under the Economic Partnership, Political Coordination and Cooperation Agreement between the two parties took place in Madrid in May. Participants reiterated their commitment to the promotion and implementation of the human rights provisions of the U.N. Charter and in international human rights instruments. The leaders agreed to strengthen political and economic coordination and cooperation.

### United States

In March, in its annual human rights report, the U.S. Department of State described “impunity” and “disregard of the law” as being “major problems” in Mexico, especially at the state level. It observed that while the government “generally respected many of the human rights of its citizens,” there were still regions of the country “where a poor climate of respect for human rights presents special concern.” Despite such criticisms, however, the U.S. government did not pursue strong bilateral action to promote human rights, but focused instead on issues such as economic relations, immigration control, and narcotics.

Efforts that had been underway to develop a bilateral agenda to address migration and other issues—which had gained momentum prior to September 11, 2001—were largely abandoned by the Bush administration in 2002. In August, President Fox cancelled a visit with President Bush to protest the execution of a Mexican citizen in Texas.

## PERU

While Peruvians had high hopes that the government of President Alejandro Toledo would make a decisive break with the authoritarian policies of his predecessors, his administration lacked a clear vision of human rights and often seemed to be improvising in the face of conflicting pressures. The truth commission established by caretaker president Valentín Paniagua in 2001 and supported by Toledo enjoyed credibility and wide public support, despite political attacks and budgetary problems. However, the quest for truth was not matched by comparable progress in the quest for justice, with prosecutors making little headway on key rights cases.

Important reforms were instituted in the national police force, but torture remained endemic. Prison conditions did not improve, and in some cases sharply deteriorated. Belated government proposals to reform the draconian anti-terror-

ism laws bequeathed by the Fujimori government did not address many due process concerns and added some new ones. In tackling these legacies, President Toledo faced considerable obstacles: a resurgence of activity by armed groups; a stagnant economy; popular unrest as living standards failed to improve; and a fractious opposition often critical of efforts to examine the past.

### HUMAN RIGHTS DEVELOPMENTS

A car bomb explosion in a shopping center fifty meters from the U.S. embassy in Lima on March 20, the eve of a state visit to Lima by President George W. Bush, abruptly brought the issue of terrorism to the fore. The blast killed nine people and wounded at least thirty others. In June, the government announced that it had arrested and charged three alleged members of the Shining Path (Sendero Luminoso, S.L.) guerrilla group in connection with the attack. This and other incidents attributed to Shining Path brought renewed calls from politicians for tougher anti-terrorism measures. These security concerns complicated long overdue efforts to reform anti-terrorist legislation, which had been repeatedly criticized by the Inter-American Commission on Human Rights for violating due process guarantees.

In mid-June, the government imposed a thirty-day state of emergency in the southern city of Arequipa, to quell violent protests and looting. The protests began with a hunger strike by eight mayors protesting government proposals to privatize two electricity companies, allegedly in breach of a campaign promise. Two young people died and 150 people were injured during the six-day riots, which threatened to engulf Tacna, Cusco, and other cities. The protests subsided when Toledo promised to suspend the sale of the companies.

Between April and September, Peru’s Truth and Reconciliation Commission held televised hearings in rural towns across the country, devoted to the testimonies of victims of “disappearances,” extrajudicial executions, torture, rape, and massacres that took place from 1980 to 2000. The hearings were unprecedented in Latin America; all previous truth commissions had met behind closed doors. After years of official silence, the hearings brought home with tremendous emotional force the suffering caused by Peru’s twenty-year counterinsurgency effort.

The commission also participated in the exhumation of clandestine graves in Ayacucho province, permitting the identification of remains. In January, the remains of eight peasants were discovered in a grave in the district of Chuschi, identified, and returned to their relatives for burial. In August, bones belonging to nine victims were found in two graves in Totos, Cangallo province; five were positively identified. Both the Chuschi and Totos victims were believed to have been summarily executed in 1983 by government troops led by a captain with the nom-de-guerre of “Jackal” (“Chacal”). In response to the clamor of victims’ relatives for justice, the commission set up a unit to refer egregious cases to the courts immediately rather than waiting until it completed its work in July 2003.

The impartiality of the commission was repeatedly questioned by politicians belonging to the Popular American Revolutionary Alliance (Alianza Popular Revolucionaria Americana, APRA). APRA leader Alan García was president of the

country from 1985-1990, a period during which many of the most serious human rights violations took place. Although the government supported the commission, it was slow to make up its 60 percent share of the commission's budget; the remaining 40 percent was funded by other countries. In August, Salomón Lerner, the commission's chair, warned publicly that the commission would have to stop work within a week if U.S.\$3.3 million promised for 2002 was not received. Managers of a special fund administering monies recovered from corruption agreed to meet the sum and released U.S.\$1.5 million to tide the commission over.

Trials of officials implicated in human rights violations during Alberto Fujimori's rule continued, but progress was modest. On July 1, anti-corruption judge Saúl Peña Farfán sentenced Vladimiro Montesinos, Fujimori's close political advisor, to nine years and four months of incarceration for usurping the functions of the head of the National Intelligence Service (Servicio de Inteligencia Nacional, SIN). Montesinos, held at the naval base of Collao, faced criminal charges in seventy-five other cases. Along with Fujimori, he was charged with organizing the Colina Group, a death squad responsible for extrajudicial executions, torture, and "disappearances" in the early 1990s. In October, prosecutor Richard Saavedra filed charges against forty-four members of the group for the abduction and murder of journalist Pedro Yauri Bustamante on June 24, 1992.

Cabinet ministers and prominent members of Congress tried to prevent the prosecution of army commandos who had participated in an operation to free seventy-one people held hostage by guerrillas in the Japanese ambassador's residence in 1997. Fourteen members of the Túpac Amaru Revolutionary Movement (Movimiento Revolucionario Túpac Amaru, MRTA) were killed in the operation.

Some of the freed hostages reported having seen several of the guerrillas alive and in custody before they were killed. Forensic examinations carried out on the exhumed bodies established that eight of the guerrillas were apparently shot in the head after capture, or while defenseless because of injuries. On May 13, Judge Cecilia Pollack ordered the arrest of twelve senior army officers who participated in the raid. The ministers of defense and justice criticized the arrest warrants. Congress issued a statement of concern, and APRA and National Unity (Unidad Nacional, U.N.) legislators presented bills to award the accused an amnesty. On July 29, in a clear demonstration of official support, the implicated commandos led Peru's traditional annual military parade.

Although the amnesty initiative did not succeed, a military judge initiated parallel proceedings in a military tribunal, challenging the jurisdiction of the civilian court. On August 16, a Supreme Court panel ruled unanimously in favor of the military tribunal, on the ground that the operation took place in a district of Lima under a state of emergency at the time. It also ruled that the civilian court should retain jurisdiction over four of the accused, including Montesinos and then army commander-in-chief Gen. Nicolás de Bari Hermoza, whom the court claimed had acted outside the chain of command. In addition to awarding the case to a tribunal lacking independence and impartiality, the decision effectively prejudged one of the key issues of the trial: who had given the orders and on what authority.

In April, the attorney general appointed Felipe Villavicencio Terreros as Special Prosecutor on Forced Disappearances, Extrajudicial Executions and the Exhuma-

tion of Clandestine Graves. The post was created under a friendly agreement between the government and the Inter-American Commission on Human Rights reached in January 2001, by which the state accepted responsibility for 159 cases of "disappearances," mainly dating from the 1980s, and undertook to continue judicial investigations to clarify the fate of the 250 victims and bring the perpetrators to justice. The special prosecutor was also mandated to exhume and identify human remains. (There were believed to be more than five hundred clandestine burial sites across the country.) Unfortunately, the new office was seriously under-resourced. Dr. Villavicencio had two assistant prosecutors, but lacked full-time assistance from prosecutors at the local level, as well as a budget for a database.

There was little progress in the government's attempts to have Alberto Fujimori extradited from Japan to stand trial for corruption and human rights violations. In June, the cabinet approved a Supreme Court judge's request for the extradition materials to be filed. In early November, the bulky file was still being translated into Japanese. Fujimori's spokesman announced in July that he was planning to run for president again in the 2006 elections.

On July 26, President Toledo introduced a bill to reform Peru's draconian anti-terrorist laws, a legacy of the Fujimori government. The government hoped to allay international criticism by removing the laws' due process shortcomings, while making the laws more severe and ensuring that those convicted under the existing laws could not find procedural reasons to justify their release. In fact, the reform proposals created additional due process concerns: for example, those arrested for a second terrorist offense committed after serving their sentence for the first one could be interned as a "security measure" for up to thirty years, contravening the presumption of innocence, and detainees held on terrorism charges could be kept in custody for up to six years without a finding of guilt, if the investigation met with "special difficulty."

Torture remained a serious problem. The Human Rights Commission (Comisión de Derechos Humanos, COMISEDH), a respected nongovernmental human rights group, documented fifty-three cases involving seventy-seven victims from January 2001 through August 2002. Fifteen of the victims died as a result of torture. A law introduced in 1998 explicitly outlawing torture made little impact on the prevailing impunity for this serious crime: In the four years since its promulgation there were only three convictions. Many prosecutors failed to file complaints, or filed them for the lesser crime of "abuse of authority." In other cases, military prosecutors assumed jurisdiction under military laws that classified torture as a specific military offense. Often they investigated the crime in parallel with civilian courts, refused to cooperate with them, or formally disputed their jurisdiction.

Of particular concern in 2002 were reports of the torture of military recruits. By September, COMISEDH had documented nine such cases. On July 9, Rolando Quispe Berrocal, a nineteen-year-old recruit at the Domingo Ayarza army base in Huamanga, was woken in the night by three sergeants who allegedly doped him with an impregnated cloth and forced into his anus a talcum powder container into which a light bulb had been inserted. After he had been hospitalized and operated on for his injuries, army officials mounted guard around Quispe and threatened both him and members of his family. On July 24, the Ayacucho military prosecutor

charged him with lying, maintaining that he was a homosexual and had inflicted his injuries himself. He was sentenced the following month to thirty days detention and payment of damages of 1,500 soles (approx. U.S.\$416). At the same time, a military court opened an investigation for “abuse of authority” against those responsible for his torture.

Despite welcome improvements in the rules covering those convicted or held on terrorism charges, the prison infrastructure remained woefully deficient, and overcrowding was severe. Lima’s Lurigancho prison, for example, designed for 1,800 prisoners, housed around seven thousand. Prisoners slept huddled in rows on the floor of large pavilions. Prisoners with tuberculosis or HIV/AIDS (2.6 percent of inmates in 1999, most at an advanced stage of the disease) were treated by volunteers from Doctors Without Borders (Médicins Sans Frontiers); the state provided none. The population of the remote Challapalca high security prison in Puno, located at fourteen thousand feet in the Andes, doubled from fifty to more than one hundred in 2002. Due to its oxygen-thin air, isolation, and freezing temperatures, Peru’s human rights ombudsman and the Inter-American Commission on Human Rights had repeatedly called for the prison’s closure as a health hazard both to inmates and staff.

In August, the government promulgated an access to information law, aimed at promoting transparency in government. The law established that all information in the hands of the state was, in principle, public, and fixed penalties for refusal of access. The Peruvian Press Council described the law as a “step in the right direction,” but said that it had been approved in a hurry and without enough debate. In particular, it criticized a provision that allowed the cabinet to classify information as secret on overly broad national security grounds.

## DEFENDING HUMAN RIGHTS

Edwar Alvarez, a lawyer working for the respected human rights group, the Institute of Legal Defense (Instituto de Defensa Legal, IDL), received death threats from José Eduardo Tomanguilla, a police lieutenant who had just been sentenced to ten years imprisonment for the torture and “disappearance” of Alejandro Trujillo in March 2000. Shortly afterwards Tomanguilla escaped from custody, raising concern for Alvarez’s safety.

As of this writing, the Peruvian Congress had yet to appoint a successor to Dr. Jorge Santistevan as human rights ombudsman. The ombudsman’s office had been without a titular head since December 2000, and had been headed provisionally by Santistevan’s deputy, Walter Albán. The ombudsman’s office continued to command credibility and wide popular support in Peru for its vigor and independence in defending human rights. In May, Human Rights Watch wrote to the president of Congress, Carlos Ferrero Costa, urging that a competent appointee be named quickly.

## THE ROLE OF THE INTERNATIONAL COMMUNITY

### United Nations

At the April session of the U.N. Commission on Human Rights, in a welcome development, Peru issued a standing invitation for visits of U.N. human rights monitoring mechanisms, putting it among only five countries in the Americas that had done so.

In August, the Committee on the Elimination of Discrimination against Women congratulated Peru on “great progress” in enacting legislation to combat discrimination against women. Several experts, however, noted that the electoral quota system for women had been disregarded in some parts of the country in the April 2001 elections.

### Organization of American States

In April, the Inter-American Commission on Human Rights (IACHR) issued its conclusions in the case of U.S. citizen Lori Berenson, convicted of terrorism in June 2001 after a trial in a civilian court. The commission found that the trial violated the principle of legality, as well as Berenson’s due process rights. The commission’s observations centered on the 1992 anti-terrorism law on which the new trial was based. It also criticized the use of evidence obtained during her first trial by a military court. The commission called on Peru to redress the violations of Berenson’s rights and reform the terrorism laws.

During a visit to Peru in August, Marta Altolaguirre, a commission member, announced that Minister of Justice Fausto Alvarado Dodero had promised to implement the IACHR’s recommendation to close down Challapalca prison.

In October, the commission admitted for review a case presented by the human rights ombudsman’s office and a women’s rights group alleging that in three electoral districts the electoral authorities had failed to respect the 30 percent quota for women candidates.

### United States

On January 7, the State Department released a group of thirty-eight declassified documents in response to a request from a Peruvian congressional committee investigating charges of corruption and human rights violations against Vladimiro Montesinos. Forty-one other documents obtained under the Freedom of Information Act by the National Security Archive, a Washington-based group, were published the same month. Both sets of documents provided valuable information for on-going court investigations into human rights violations in Peru. In September, during a visit by Toledo to Washington, the State Department announced that another fifty-four declassified documents would be released shortly.

In July, United States officials reportedly confirmed their intention to resume joint aerial drug interdiction missions in Peru. Such missions had been suspended in April 2001 after a missionary, Veronica Bowers, and her infant daughter were

killed when their plane was mistaken for a drug-trafficker's aircraft and shot down by a Peruvian fighter jet.

According to a press statement issued by the Association of Baptists for World Evangelism (ABWE) in March, "after being warned nothing would be done for our missionaries unless we agreed to release the U.S. government from responsibility for any payment for losses to our organization, ABWE has chosen to grant a release." Human Rights Watch learned that the United States was considering giving Peruvian pilots sole decision-making responsibility when the program was resumed, making it easier for the United States to deny responsibility for future mistakes resulting in death or serious injury. In August, Human Rights Watch wrote to President Toledo urging him to reject any such program if it entailed the unlawful use of lethal force against civilians, whether drug-traffickers or not.

## VENEZUELA

Venezuela experienced extreme political turmoil in early 2002, which culminated in a failed attempt to oust President Hugo Chávez in April. After the attempted coup, Venezuelan society remained deeply polarized, political protests continued, and economic conditions worsened, leaving the country at risk of further violent conflict and jeopardizing democracy and the rule of law. The human rights situation was also marked by problems in the administration of justice, police abuses, and threats to freedom of expression.

### HUMAN RIGHTS DEVELOPMENTS

Opposition to the Chávez government began to mount at the end of 2001, following the passage, by presidential decree, of forty-nine economic laws, including legislation covering land reform and tightening the government's control over the oil industry. On December 10, 2001, Venezuela's leading business association, Fedecámaras, led a one-day general strike to protest the new laws. Thousands of businesses across Venezuela, as well as the country's largest labor union confederation, the Confederation of Venezuelan Workers (Confederación de Trabajadores de Venezuela, CTV), participated in the strike. Members of the armed forces also began to take an overtly critical position; in February 2002, several high-ranking military officers called for Chávez's resignation.

On April 9, following labor disputes at Venezuela's national oil company, CTV and Fedecámaras called another general strike. Tensions increased when, on April 11, labor groups, business organizations, the political opposition, and members of civil society participated in a massive protest march to support the strike and to demand Chávez's resignation. Marksmen in civilian clothes in nearby buildings opened fire as some five hundred thousand people marched to the presidential