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Habeas Corpus Reform in El Salvador

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Habeas Corpus Reform in El Salvador

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I. Introduction

In this paper I compare the *habeas corpus* systems of El Salvador, the United States and Argentina. My purpose is to develop a general understanding of the procedure for bringing the writ in each country and analyze the substantive law governing the rights of *habeas corpus* petitioners in each country. I evaluate the systems against the backdrop of each country's political and legal history with respect to the writ of *habeas corpus*. The ultimate aim of this paper is to reform the *habeas corpus* law of El Salvador by analyzing the Salvadoran system as compared to the Argentine and U.S. systems.

I conclude that the Argentine *habeas corpus* system provides a better model for the Salvadoran system than does the U.S. system. I draw this conclusion because the two countries share common foundations for their legal systems, in addition to common histories of civil war, during which there were numerous disappearances and denial of *habeas corpus* rights. Moreover, Argentina's *habeas corpus* law protects the liberty interest of the detained individual more so than U.S. *habeas corpus* law. This heightened protection of the right to liberty largely results from the country's past history of forced disappearances and incommunicado detention. Because El Salvador witnessed similar problems in its past, the Argentine model provides a good model for Salvadoran reform. The details of my analysis and more specific recommendations are discussed in parts III and IV below.

II. Research results

A. Latin American systems of *amparo*

Many Latin American systems have modeled their *habeas corpus* laws after the English common law writ, including El Salvador and Argentina. The writ, meaning literally “you have the body,” was used to ensure that a detained person would always be brought before a judge to determine the legality of the detention.¹ However, the adoption of the writ that protected the individual by allowing a court to declare the person’s detention unlawful necessarily granted broad powers to the judiciary. Latin America’s civil law tradition did not easily incorporate such expanded powers for the judiciary.² Therefore, many Latin American systems created a hybrid for the civil law restriction on the judiciary and the individual protections guaranteed in a constitutional democracy such as England. The hybrid became the writ of *amparo* or “protection.” The writ of *amparo* was first instituted in Mexico in 1847.³

The writ of *amparo* is a federal proceeding which may be brought by any person who complains that his constitutional rights are being violated by a public official. If the petitioner is successful, the judge will grant only protection to that individual; the judge will not have the power to declare the law unconstitutional.⁴ *Habeas corpus* emerged in Latin America as a subset of *amparo*. *Habeas corpus* law applies only when a person is in custody, whereas *amparo* applies in other situations where a person is wronged by the act of a public official.⁵

B. Salvadoran *habeas corpus* law

1. Background

Habeas corpus first appeared in the Salvadoran constitution in 1841, although its inclusion was suggested by legislators as early as 1810. The model for Salvadoran *habeas corpus* law was the English system, which was founded upon the dignity of the person and the

requirement that a detained person always have access to a court of law.⁶ Each subsequent constitution and the present constitution of 1983 have expressed an individual's right to the writ of *habeas corpus*.⁷

During the civil war in El Salvador during the late 1970's and early 1980's, there were frequent abuses of the writ of *habeas corpus*. Prisoners were denied the writ based on procedural technicalities, detaining authorities transferred prisoners without notice to the judge charged with hearing the case, or authorities simply denied that the person was in their possession.⁸ Those who needed *habeas corpus* protection the most, persons detained by the military, were denied their basic *habeas corpus* rights; thus the writ was only effective in cases of common crimes.⁹ There were several attempts to ameliorate the political and legal systems in El Salvador following the civil war. The UN Observer mission in El Salvador (ONUSAL) was set up by the 1990 San Jose agreement to monitor the peace process after the war.¹⁰ In addition, the United States sponsored a judicial reform project in response to the unpunished killing of American churchwomen there. This project focused mainly on establishing a more independent and well-financed judiciary in El Salvador to reverse the reign of impunity.¹¹ Although there were suggestions on improving the *habeas corpus* legal system, no noticeable reforms have resulted from these suggestions.¹²

2. Salvadoran *habeas corpus*: the process

Salvadoran *habeas corpus* law applies to all individuals who are in "custody," which means that a person is detained within certain limits or that his movements are confined to certain territorial limits or dictated by another.¹³ Cognizable claims under the law include unlawful detention by public authorities and violations of constitutional norms;¹⁴ petitioners may also claim derogation of physical, psychological or moral integrity.¹⁵

Once a person is in “custody” for the purposes of *habeas corpus* law, he must present the writ of *habeas corpus* in writing to the Secretariat of the Constitutional Chamber of the Supreme Court of Justice or Courts of Appeals outside the capitol.¹⁶ This restriction on courts that may hear *habeas corpus* petitions has led to suggestions by ONUSAL that the habeas process should be more decentralized and therefore more accessible to the common person.¹⁷ No oral writs are allowed; this provision has also given rise to criticism that the *habeas corpus* procedure is inaccessible to many petitioners.¹⁸ Additionally, the petition must be written with sufficient detail. Although the Law of Constitutional Procedures allows the court to substitute for errors,¹⁹ recent court decisions have denied writs of *habeas corpus* for failure to follow the formalities.²⁰ Furthermore, there is no requirement for exhaustion of remedies and a person in custody may bring any number of *habeas corpus* petitions. A *habeas corpus* petition thus interrupts the proceedings in the underlying case because the *habeas corpus* issue must be resolved before the case can continue against any of the defendants.²¹

Upon receipt of a petition for *habeas corpus*, the court assigns the case to a judge executor, who locates the petitioner, investigates the legality of the detention and submits a report to the court.²² The judge executor is commonly a law student, and receives no additional training for the job of judge executor.²³ The crucial role played by this non-judge, non-lawyer in the *habeas corpus* process has also raised concerns of whether such a person should be given so much responsibility in protecting the fundamental right to liberty.²⁴ The institution of judge executor has also been criticized for delaying the resolution on any *habeas corpus* petition, since the *habeas corpus* report must pass through this additional person before the court reviews it.²⁵ Furthermore, this institution is merely a relic of the past and thus inconsistent with El Salvador’s change from an inquisitive system to a more adversarial system.²⁶

When the judge executor investigates the case, the detaining authority must present the individual immediately and give reason for the detention.²⁷ The individual never receives the right to a hearing, since *habeas corpus* is a legal, not evidentiary issue.²⁸ If denied, the individual has the right to an appeal within five working days.²⁹ The right to judicial review by the Constitutional Chamber of the Supreme Judicial Court is guaranteed under the Constitution.³⁰

The writ of *habeas corpus* may not be suspended in the state of emergency. El Salvador's law is thus consistent with inter-American human rights law.³¹ However, Salvadoran law permits a standard period of inquiry of seventy-two hours, during which time the judge executor may not see the petitioner.³² This period may be extended up to fifteen days in the case of war, invasion, rebellion, sedition, catastrophe, or serious disturbances of the public order.³³ The permissible period of inquiry effectively serves to negate the protection of there being no suspension of the writ in states of emergency. Rather, permitting the detaining authority to hold the detainee for even seventy-two hours without presenting him to the judge executor allows abuses of incommunicado detention, which the writ of *habeas corpus* is designed to prevent from occurring.

C. Argentine *habeas corpus*

1. Background

Argentina ushered in its first *habeas corpus* legislation in 1863, with a law that was based on the U.S. Judiciary Act of 1789.³⁴ The first law to constitutionalize *habeas corpus* was the *Habeas corpus* law of 1984, which removed federal *habeas corpus* from the criminal procedure code and established it as a special law.³⁵ The constitutional reforms of 1994 then gave express

constitutional recognition to *habeas corpus* by explicitly stating that *habeas corpus* was a constitutional procedure.³⁶

Argentina, like El Salvador, had a period of history where the right to *habeas corpus* was frequently reduced to a nullity. During the military dictatorship of 1976-1984, thousands of people were disappeared. When their families filed writs of *habeas corpus* on their behalf, most cases were dismissed after the military denied ever having seen the person. This history resulted more from the executive's refusal to respect the law and less from failure of the legal institutions as written.³⁷ However, the Argentine legislature still deemed it necessary to respond to this history of disappearances in the 1994 constitutional reforms. Article 43 of the Constitution now expressly applies *habeas corpus* to situations of forced disappearances. In addition, the constitutionalization of *habeas corpus* law promoted a heightened protection of the writ so that episodes of its past would never again occur.³⁸

2. Argentine *habeas corpus*: the process

Argentina, like El Salvador, uses a broad definition of "custody" to determine when a person may apply for the writ of *habeas corpus*. Under the *Habeas corpus* law, a person is in custody when there is a present threat to ambulatory liberty or if there is an illegitimate worsening of legitimate detention.³⁹ Also like the Salvadoran system, cognizable claims under *habeas corpus* law include unlawful detention by public authorities and violations of general constitutional norms.⁴⁰ Argentina however, has gone further than El Salvador in responding to its historical abuse of the writ; the 1994 amendments to the Constitution include forced disappearances as a cognizable claim under *habeas corpus* law.⁴¹ Additionally, Argentine *habeas corpus* law has recognized deprivations of liberty including forced military service and the expulsion of foreigners from the country.⁴²

The writ of *habeas corpus* may be presented orally or in writing to a the clerk of judges of the first instance in the criminal division if in the federal capital, or to section judges if the individual is in the national territory of the provinces.⁴³ The Argentine system thus is more accessible to its petitioners than the Salvadoran system, since literacy or geography do not limit one's ability to present the writ. Like the Salvadoran system, there is no limitation on the number of writs filed and there is no requirement that the petitioner exhaust his remedies.

Once the writ is filed, the judge investigates and makes all necessary reports for the petitioner's case.⁴⁴ Thus the Argentine system places the protection of this fundamental right to liberty in the hands of a judge, unlike the Salvadoran system. The judge immediately orders the detaining authority to present the petitioner before the court, or explain any transfer of custody that has been made.⁴⁵ Only if the individual can not be brought before the court does the judge visit the place where the person is detained. In this case, the judge may also authorize a family member or a trustee of the court to observe the situation of the detained individual, as does the judge executor in the Salvadoran system.⁴⁶ The Argentine system is also more protective of the fundamental right to liberty because the *habeas corpus* petitioner has a right to a hearing. With this hearing comes the right to legal representation, to testify, present evidence and receive an immediate final decision.⁴⁷ As in the Salvadoran system, the Argentine system guarantees the right to an appeal, although the petitioner needs to wait only twenty-four hours for an appeal, unlike the five day period in Salvadoran law.⁴⁸

Argentina is equally as observant of inter-American jurisprudence regarding the suspension of the writ of *habeas corpus* in states of emergency. The writ may not be suspended during states of siege in Argentina.⁴⁹ During states of siege, the judge will still hear the petitioner's writ and will determine the legitimacy of the state of siege, the correlation between

the deprivation of liberty and the situation that gave rise to the siege, and any illegitimate aggravation of conditions of detention.⁵⁰

D. U.S. *Habeas corpus*

1. Background

U.S. *habeas corpus* law traces its roots back to English common law, which ensured that no free man would be imprisoned without due process of law.⁵¹ The Federalist Papers adopted English *habeas corpus* law to protect against arbitrary punishment and arbitrary imprisonment.⁵² The right of *habeas corpus* was adopted in both the Constitution of 1789⁵³ and the 1789 Judiciary Act.⁵⁴ The Federal *Habeas corpus* Act, adopted in 1867 and amended on several different occasions, today governs the writ of *habeas corpus* in federal courts.⁵⁵

The U.S. *habeas corpus* writ has not seen nearly as troubling of a past as the writs of El Salvador and Argentina. Nonetheless, the U.S. *habeas corpus* system is the only one of the three that officially allows for the writ to be suspended in states of emergency. The Suspension Clause of the Constitution allows for its suspension in cases of rebellion or invasion or when the public safety shall require it.⁵⁶ Indeed, the writ was suspended during the U.S. civil war; President Lincoln suspended the writ of *habeas corpus* in 1861 and 1862.⁵⁷ Thus the U.S. writ does not follow the inter-American jurisprudence of its Latin American counterparts. However, the U.S. also does not have the same obligation to follow advisory opinions of the Inter-American Court of Human Rights, since the U.S. does not recognize the jurisdiction of the court.⁵⁸

2. U.S. *habeas corpus*: the process

Like El Salvador and Argentina, the U.S. system has a broad definition of custody for the purposes of bringing the writ of *habeas corpus*. A petitioner must be in custody under or by color of authority of the United States; his custody can mean that he is subject to any restraints

not shared by the public generally.⁵⁹ Cognizable claims under *habeas corpus* law are any violation of the Constitution or laws or treaties of the U.S.⁶⁰

The writ of *habeas corpus* is presented in writing to the Supreme Court, district courts or any circuit court judge.⁶¹ Unlike the Salvadoran and Argentine systems, U.S. federal *habeas corpus* law requires the exhaustion of state remedies before a petitioner can bring a federal *habeas corpus* petition⁶² and each petitioner may only bring one *habeas corpus* petition on an issue.⁶³ The provisions for exhaustion of remedies and against successive *habeas corpus* petitions may provide an example for El Salvador, whose Supreme Court can more easily become overloaded with *habeas corpus* petitions.⁶⁴

Once a *habeas corpus* petition has been filed with the court, the judge issues all necessary reports for the case. The judge orders the detaining authority to show cause for the detention and holds a hearing.⁶⁵ The requirement for presentation of the individual occurs at the hearing; however, there need not be a hearing if the petition presents solely a matter of law.⁶⁶ Thus the U.S. system provides less protection against arbitrary detention than the Argentine system, since there is no guaranteed hearing or presentation of the individual to a judge under U.S. *habeas corpus* law. The presentation of the individual is the *sine qua non* of *habeas corpus* law, yet the U.S. system does not grant even that basic protection to all *habeas corpus* petitioners.

When a hearing takes place, the rights of the petitioner are similar to those in the Argentine system; U.S. petitioners have a right to legal representation, to testify, present evidence and receive documents at no cost if indigent.⁶⁷ Unlike the Argentine and Salvadoran systems, the U.S. *habeas corpus* petitioner has no right to an appeal unless the judge issues a certificate of appealability, which may only be issued if the petitioner has made a substantial showing of the denial of a constitutional right.⁶⁸ Again, the U.S. system's focus on efficiency

and reducing case load operates to deny rights under *habeas corpus* law that other countries have found to be important to the protection of the right to individual liberty.

III. Conclusion

Based on my study of the three systems, I make the following recommendations for change to the Salvadoran *habeas corpus* process. First, the petitioner should be brought before a judge and the institution of judge executor should be abolished. Although the judge executor may play a role in assisting the court with administrative matters and legal research, the judge executor should function more as a clerk and less as a judge in determining the fundamental right to freedom from arbitrary detention. Abolishing the institution of the judge executor would allow the petitioner to be presented more quickly to a judge and would speed up the process for the petitioner and all other parties.

Second, the *habeas corpus* process should become more accessible to its petitioners. The system should allow for the presentation of oral writs so that literacy is not an impediment to the full realization of rights under *habeas corpus* law. In addition, courts of first instance (trial courts) should be given jurisdiction to hear *habeas corpus* petitions. This change will not only make the system more accessible to persons throughout the country, but it will also decrease the case loads of the Supreme Court and the circuit courts that currently hear all *habeas corpus* petitions.

Third, *habeas corpus* petitioners should be entitled to the right to a hearing. The rhetoric in the constitution about the importance of the writ of *habeas corpus* as a fundamental right is inconsistent with the fact that a petitioner may never be heard by the court about this fundamental right. Moreover, the additional administrative burden of mandating *habeas corpus*

hearings would be offset by adopting the above recommendation to grant *habeas corpus* jurisdiction to courts of first instance.

Fourth, *habeas corpus* law should require the exhaustion of remedies before presenting a petition. Such a change would confer upon the underlying process a sense of legitimacy, since *habeas corpus* petitioners would use these provided mechanisms for resolving their cases. Any need for improvement in the underlying judicial process should be addressed separately. Such a change would also speed up the process in the underlying case. Moreover, a requirement for exhaustion of remedies will further decrease the case load of the courts that presently hear *habeas corpus* petitions and thus preserve the process for petitioners who have completed the underlying process and challenge an aspect of that process.

Finally, there should be no period of inquiry during which time the judge executor is prevented from seeing the petitioner. The allowance of up to fifteen days for this period during a state of emergency is too long. However, even the usual allowance of up to seventy-two hours for this period is too long. The basic protections of *habeas corpus* law are seriously undermined by this period of inquiry. The right to have a court judge the legality of the detention and the presentation of the individual mean little when during the crucial period of detention, namely the first couple days, the petitioner may be held incommunicado.

¹ ERIC M. FREEDMAN, *HABEAS CORPUS: RETHINKING THE GREAT WRIT OF LIBERTY* 1 (New York University Press 2001).

² Robert S. Barker, *Essay: Constitutionalism in the Americas: A Bicentennial Perspective*, 49 U. PITT. L. REV. 891, 902-07 (1988).

³ *See id.*

⁴ *See id.*

⁵ *See id.* at 910; Dr. Angel Góchez Marín, *El Juicio de Amparo*, in FUNDACIÓN DE ESTUDIOS PARA LA APLICACIÓN DEL DERECHO, CONSTITUCIÓN DE EL SALVADOR: CONFERENCIAS 163 (1998).

⁶ *See* 1 FRANCISCO BERTRAND GALINDO, JOSE ALBINO TINETTI, SILVIA LIZETTE DURÍ DE MENDOZA & MARIA ELENA ORELLANA, *MANUAL DE DERECHO CONSTITUCIONAL* 315 (Centro de Investigación y Capacitación Proyecto de Reforma Judicial 1992).

⁷ *See, e.g.*, CONST. SAL. (1983) Art. 11: “The individual has the right to *habeas corpus* when any individual or authority illegally or arbitrarily restrains his liberty. *Habeas corpus* will also proceed when any authority derogates the dignity or physical, psychological or moral integrity of detained persons.”

⁸ *See, e.g.*, *Report on the Situation of Human Rights in El Salvador*, Inter-American Commission on Human Rights, chapter V, OEA/ser.L/V/II.46, doc. 23 rev. 1 (1978).

⁹ *See* Dr. Angel Góchez Marín, *supra* note 5 at 164-65.

¹⁰ THE UNITED NATIONS AND EL SALVADOR, 1990-1995 3-16 (Department of Public Information, UN 1995).

¹¹ U.S. GENERAL ACCOUNTING OFFICE, REPORT TO THE CHAIRMAN, SUBCOMM. ON WESTERN HEMISPHERE AFFAIRS, COMM. ON FOREIGN AFFAIRS, HOUSE OF REPRESENTATIVES, FOREIGN AID: EFFORTS TO IMPROVE THE JUDICIAL SYSTEM IN EL SALVADOR 17, GAO/NSIAD 90-81 (1990).

¹² *See, e.g.*, *The Situation in Central America: Procedures for the Establishment of a Firm and Lasting Peace and Progress in Fashioning a Region of Peace, Freedom, Democracy and Development*, UN OBSERVER MISSION IN EL SALVADOR, at 49-50, 58, U.N. Doc. A/47/912-S/25521 (1993).

¹³ Law of Constitutional Procedures Arts. 38-39.

¹⁴ Law of Constitutional Procedures Art. 1.

¹⁵ CONST. SAL. Art. 11.

¹⁶ Law of Constitutional Procedures Art. 41.

¹⁷ *See* Dr. Gerardo Liévano Chorro, *El Hábeas Corpus*, in FUNDACIÓN DE ESTUDIOS PARA LA APLICACIÓN DEL DERECHO, CONSTITUCIÓN DE EL SALVADOR: CONFERENCIAS 230 (1998); Excerpt from *Report of the ONUSAL Human Rights Division Covering the Period from 1 November 1993 to 28 February 1994*, ONUSAL, at 537, U.N. Doc. A/49/116-S/1994/385 (1994).

¹⁸ *See* Chorro, *supra* note 17 at 229.

¹⁹ Law of Constitutional Procedures Art. 80.

²⁰ *See* E-mail from Roberto Burgos Viale, Assistant to Benjamin Cuellar Martinez, Director, Instituto de Derechos Humanos de la Universidad Centroamerica (April 5, 2003) (on file with author), quoting *Habeas corpus* case ref. 241-20000, 14 September 2000.

²¹ MARTHA DOGGETT, LAWYERS COMMITTEE FOR HUMAN RIGHTS, *DEATH FORETOLD* 245 (Georgetown University Press 1993).

²² Law of Constitutional Procedures Arts. 44-70.

²³ *See* E-mail from Roberto Burgos Viale, *supra* note 20.

²⁴ *See* Marín, *supra* note 5 at 164; *The Situation in Central America: Procedures for the Establishment of a Firm and Lasting Peace and Progress in Fashioning a Region of Peace, Freedom, Democracy and Development*, UN OBSERVER MISSION IN EL SALVADOR, at 49, U.N. Doc. A/47/912-S/25521 (1993).

²⁵ *See* Marín, *supra* note 5 at 164.

²⁶ *See* Héctor Quiñones Vargas, *Observaciones al Proceso Penal Salvadoreño*, EL INFORMATIVO (Proyecto PAS/DPK Consulting San Salvador, El Salvador) Nov. 2002, at 9, available at <http://www.proyectopas.com/publications.htm>.

²⁷ Law of Constitutional Procedures Art. 46.

²⁸ *See* E-mail from Roberto Burgos Viale, *supra* note 20.

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- ²⁹ Law of Constitutional Procedures Art. 72.
- ³⁰ CONST. SAL. Art. 247.
- ³¹ See, e.g., *Habeas corpus in Emergency Situations*, Inter-American Court of Human Rights, Advisory Opinion OC-8/87 (1987); American Convention on Human Rights Art. 7 (guaranteeing the right to personal liberty).
- ³² CONST. SAL. Art. 13, subsection 2.
- ³³ CONST. SAL. Art. 29.
- ³⁴ See SANTOS P. AMADEO, ARGENTINE CONSTITUTIONAL LAW: THE JUDICIAL FUNCTION IN THE MAINTENANCE OF THE FEDERAL SYSTEM AND THE PRESERVATION OF INDIVIDUAL RIGHTS 166 (Columbia University Press 1943).
- ³⁵ See John P. Mandler, *Habeas corpus and the Protection of Human Rights in Argentina*, 16 YALE J. OF INT'L LAW 1, 7 (1991).
- ³⁶ See Sagüés, *Article: An Introduction and Commentary to the Reform of the Argentine National Constitution*, at 64.
- ³⁷ See Mandler, *supra* note 34 at 5.
- ³⁸ See Sagüés, *Article: An Introduction and Commentary to the Reform of the Argentine National Constitution* at 64.
- ³⁹ *Habeas corpus* Act Art. 3.
- ⁴⁰ *Habeas corpus* Act Art. 1.
- ⁴¹ See CONST. ARG. Art. 43.
- ⁴² See 1 NESTOR P. SAGÜÉS, ELEMENTOS DE DERECHO CONSTITUCIONAL § 308 (2d ed. 1997).
- ⁴³ *Habeas corpus* Act Arts. 8, 9.
- ⁴⁴ *Habeas corpus* Act Art. 12.
- ⁴⁵ *Habeas corpus* Act Art. 11.
- ⁴⁶ *Habeas corpus* Act Art. 12.
- ⁴⁷ *Habeas corpus* Act Arts. 14-17.
- ⁴⁸ *Habeas corpus* Act Art. 19.
- ⁴⁹ CONST. ARG. Art. 43.
- ⁵⁰ *Habeas corpus* Act Art. 4.
- ⁵¹ Darnell's (the Five Knights') Case, 3 St. Trials 1 (K.B. 1627) (argument of counsel), *quoted in* 1 RANDY HERTZ & JAMES S. LIEBMAN, FEDERAL *HABEAS CORPUS* PRACTICE AND PROCEDURE § 2.3 (4th ed. 2001).
- ⁵² THE FEDERALIST PAPERS NO. 83, at 499 (A. Hamilton) (Clinton Rossiter ed. 1961).
- ⁵³ U.S. CONST., art. 1 § 9, cl. 2.
- ⁵⁴ Act of Sept. 24, 1789, ch. 20, §14, 1 Stat. 73, 81-82.
- ⁵⁵ Act of Feb. 5, 1867, 14 Stat. 385, *codified with amendments at* 28 U.S.C. §§ 2241-2243, 2254(a).
- ⁵⁶ U.S. CONST., art. 1 § 9, cl. 2.
- ⁵⁷ *Special Event: the Impeachment Trial of Abraham Lincoln*, 40 ARIZ. L. REV. 351, 357 (1998).
- ⁵⁸ American Convention on Human Rights, Signatures and Current Status of Ratification, OAS Treaty Series, *available at* <http://www.iachr.org/basicos/basic4.htm>.
- ⁵⁹ 28 U.S.C. § 2241(c)(1); *Hensley v. Municipal Ct*, 411 U.S. 345, 351 (1973), *quoting Jones v. Cunningham*, 371 U.S. 236, 240 (1963).
- ⁶⁰ 28 U.S.C. § 2241(c)(3).
- ⁶¹ 28 U.S.C. § 2242.
- ⁶² 28 U.S.C. § 2254(b)(1)(A), (B).
- ⁶³ 28 U.S.C. § 2244(b)(1) (petitioner may not present the same issue twice).
- ⁶⁴ See *Report of the ONUSAL Human Rights Division Covering the Period from 1 May to 31 July 1993*, UN OBSERVER MISSION IN EL SALVADOR, at 16, U.N. Doc. A/47/1012-S/26416 (1993).
- ⁶⁵ 28 U.S.C. §§ 2243, 2246-2252.
- ⁶⁶ 28 U.S.C. §§ 2243.
- ⁶⁷ 28 U.S.C. §§ 2243-2250; Rule 8(c) of USCS Rules Governing section 2254 Proceedings.
- ⁶⁸ 28 U.S.C. § 2253(c)(1-3).