CASE NOTE

HABBAL ET AL V ARGENTINA: THE INTER-AMERICAN COURT OF HUMAN RIGHTS' TEST ON ARBITRARY DEPRIVATION OF NATIONALITY

MARIA JOSE RECALDE-VELA*

TABLE OF CONTENTS

I Introduction 217
II Facts of the Case 218
III Proceedings in the Inter-American Human Rights System 219
IV Holding 220
  A Ruling on the Merits 220
  B Reparations 222
V Conclusion: Relevance in the Inter-American Human Rights System on the Protection of the Right to Nationality under Art 20 224

I INTRODUCTION

The right to a nationality is enshrined under art 20 of the *American Convention on Human Rights* ('*ACHR*'),[1] which states that:

> 1. Every person has the right to a nationality.
> 2. Every person has the right to the nationality of the state in whose territory he was born if he does not have the right to any other nationality.
> 3. No one shall be arbitrarily deprived of his nationality or of the right to change it.

The two bodies that oversee the implementation of the *ACHR* are the Inter-American Commission on Human Rights ('IACommHR') and the Inter-American Court of Human Rights ('IACtHR').[2] Despite the fact that not many cases concerning violations of art 20 of the *ACHR* have been heard before the IACtHR, the Court's decisions to date have 'reinforced guarantees against statelessness which establish limits to State discretion in this regard'.[3] This is also true in matters concerning the right to a nationality. This case note discusses the case of *Habbal et al v Argentina* ('*Habbal et al*'),[4] in which several important issues were raised regarding nationality matters and broader human rights questions in the context of human mobility. This note analyses the matter of arbitrary deprivation

* PhD candidate, Department of Public Law and Governance, Tilburg Law School.

1 *American Convention on Human Rights*, opened for signature 22 November 1969, 1144 UNTS 123 (entered into force on 18 July 1978) ('*ACHR*'). For more on the *ACHR*, see Thomas M Antkowiak and Alejandra Gonza, *The American Convention on Human Rights: Essential Rights* (1st edn, Oxford University Press 2017) 2–18.

2 Dinah Shelton, *Remedies in International Human Rights Law* (3rd edn, Oxford University Press 2015) 224.

3 Institute on Statelessness and Inclusion, *The World's Stateless: Deprivation of Nationality* (Report, March 2020) 59.

4 *Habbal et al v Argentina (Preliminary Objections and Merits)* (Inter-American Court of Human Rights, Series C No 463, 31 August 2022) ('*Habbal et al*').

of nationality, as the case offers an important addition to the IACtHR's jurisprudence on nationality. Even though the ruling was not in favour of the victims, this decision is nevertheless valuable for its discussion on the scope of the prohibition of the arbitrary deprivation of nationality; an issue of growing concern worldwide.[5]

II Facts of the Case

Ms Raghda Habbal was a Syrian national who relocated from Spain to Argentina in 1990 with her husband, Mr Monzer Al Kassar, and their three daughters, Monnawar, Hifaa and Natasha.[6] Their son, Mohamed René, was born in Argentina in 1991.[7] On 21 June 1990, Mr Al Kassar submitted an application to Argentina's National Population and Immigration Department ('DNPI') in order to obtain permanent residence for his family, which was granted on 4 July 1990.[8] On 31 December 1991, Ms Habbal applied for naturalisation in Argentina. She was three months short of the two years of residence required for naturalisation at the time,[9] and instead opted for naturalisation 'under the terms of Article 3(c) of the enabling regulations of Law 23,059'[10] for which she qualified by acquiring property.[11] Her naturalisation request was approved on 4 April 1992 and she was required to renounce her Syrian nationality.[12]

In 1992, there were reports that her husband, Mr Al Kassar, 'had a history of involvement in various kinds of crimes, including drug and weapons trafficking and terrorism'[13] and his permanent residence was revoked. On 11 May 1992, the Ministry of the Interior issued *Resolution No 1088* through which the Director of the DNPI revoked the permanent residence of Ms Habbal and her daughters.[14] *Resolution No 1088* declared that Mr Al Kassar, Ms Habbal and their children were in the country illegally and ordered their expulsion from Argentina.[15] Arrest

---

5 Cases of arbitrary deprivation of nationality are on the rise worldwide, including in the Americas. See Inter-American Commission on Human Rights ('IACommHR'), 'IACHR Calls on States to Guarantee Full Enjoyment of the Right to Nationality', *OAS* (Press Release, 7 September 2023) <https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/media_center/PReleases/2023/212.asp>, archived at <perma.cc/9U2K-7D8B>; Institute on Statelessness and Inclusion (n 3) 131–2.

6 The couple held residence in Spain: *Habbal et al v Argentina* (*Escrito de Solicitudes, Argumentos y Pruebas Presentados por los Representantes de las Presuntas Víctimas* [*Brief with Pleadings, Motions and Evidence Presented by the Representatives of the Alleged Victims*]) (Inter-American Court of Human Rights, Series C No 463, 12 August 2021) 6 ('Brief with Pleadings, Motions and Evidence').

7 *Habbal et al* (n 4) [29].

8 ibid [30].

9 See *Constitución de la Nación Argentina* [the *Constitution of the Nation of Argentina*], 1 May 1873, s 20 (Argentina); *Ley No 346 'Ley de Ciudadanía'* [*Law No 346 'Law on Citizenship'*] (1863) 5(7620) Registro Nacional de la República Argentina [National Register of the Republic of Argentina] 517, art 2(1) (Argentina).

10 *Habbal et al* (n 4) [31]; *Decreto No 3213 'Reglamentación de la Ley No 23.059'* [*Decree No 3213 'Regulations of Law No 23.059'*] (1984) 25.534 Boletín Oficial de la República Argentina [Official Bulletin of the Republic of Argentina], art 3(c) (Argentina).

11 She acquired a lot with her husband worth USD$1.2 million and owned another property worth USD$125,000, for which she submitted 'the documentation related to both purchases': *Habbal et al* (n 4) [31].

12 ibid [32].

13 *Habbal et al v Argentina* (*Admissibility Report*) (Inter-American Commission on Human Rights, Admissibility Report No 64/08, Petition No 11.691, 25 July 2008) [13] ('Admissibility Report No 64/08').

14 *Habbal et al* (n 4) [33].

15 Admissibility Report No 64/08 (n 13) [14].

warrants were issued on 12 May 1992 to place the family in detention pending deportation.[16] This Resolution also nullified Ms Habbal's naturalisation documents, and 'Civil Proceeding No 7086/2 on Revocation and/or Annulment of Citizenship' was subsequently opened against her.[17] A ruling issued on 27 October 1994 revoked her naturalisation.[18] Ms Habbal's legal representatives appealed this, but the appeals were denied in a ruling issued on 30 June 1995.[19] An appeal was lodged before the Supreme Court of Justice of the Argentine Nation ('the Supreme Court of Argentina'), 'which declared the appeal inadmissible'[20] on 27 February 1996. With all domestic remedial options exhausted, a complaint was lodged by Ms Habbal's representatives before the IACommHR on 24 May 1996.[21]

The precise result of the deprivation of Ms Habbal's Argentine nationality is unclear. Ms Habbal's representatives claimed that she was rendered stateless as a result of the Resolution, given that she had renounced her Syrian nationality in order to be naturalised.[22] The facts of the case state that Ms Habbal had entered Argentine territory between 1994–96, that her nationalities were recorded as 'Syrian, Spanish and Argentine'[23] and that in 1987 she had entered Argentina as a Brazilian national. She was stripped of her Argentine nationality on 27 October 1994 but was nevertheless able to enter the country in 1995 and 1996 on different passports.[24] It remains, however, unclear whether these nationalities — Spanish and Brazilian — were also renounced, and whether they were acquired or reacquired after she was denaturalised. It is also unclear how long she remained stateless after the revocation of her Argentine nationality.

III Proceedings in the Inter-American Human Rights System

Ms Habbal's representatives lodged a complaint against Argentina before the IACommHR on 24 May 1996.[25] Although the whereabouts of Ms Habbal and her family were unknown, Ms Habbal's legal representatives have held power of attorney since 1993 and were able to lodge the complaint on her behalf.[26] They alleged violations of the *ACHR*, in particular, the 'rights enshrined in Articles 8 (Right to a Fair Trial), 20 (Right to Nationality), 22 (Freedom of Movement and Residence), 24 (Right to Equal Protection), 25 (Right to Judicial Protection), and 28 (Federal Clause)'.[27] The Petitioners alleged several irregularities in the State's actions against Ms Habbal, including in the process that revoked her Argentine nationality. They noted that at the time when *Resolution No 1088* was issued, she had already become an Argentine national,[28] so the correct procedure would have

16 *Habbal et al* (n 4) [33]; Admissibility Report No 64/08 (n 13) [14].
17 Admissibility Report No 64/08 (n 13) [17].
18 *Habbal et al* (n 4) [38].
19 ibid [39].
20 Admissibility Report No 64/08 (n 13) [17].
21 ibid [1].
22 Brief with Pleadings, Motions and Evidence (n 6) 13.
23 *Habbal et al* (n 4) [41].
24 ibid.
25 Admissibility Report No 64/08 (n 13) [1].
26 *Habbal et al* (n 4) [17], [24].
27 Admissibility Report No 64/08 (n 13) [1].
28 They pointed out that the Office of Migration's jurisdiction relates to foreigners, not citizens: ibid [19].

been to carry out civil proceedings.[29] The IACommHR examined the petition and declared it admissible on 25 July 2008.[30] As a result of the proceedings before the IACommHR, the State revoked *Resolution No 1088* on 1 June 2020.[31] Nevertheless, the IACommHR submitted the case to the IACtHR on 3 February 2021.[32] The IACtHR was asked to determine whether the State had violated the rights of the (alleged) victims, whether the effects of the violations had since ceased and whether the State's actions — in revoking *Resolution No 1088* and thus expelling Ms Habbal — have adequately repaired the harm caused.[33]

IV Holding

A *Ruling on the Merits*

In *Habbal et al*, the main points the IACtHR considered were whether the Argentine State had violated the 'rights to freedom of movement and residence, to nationality, to equality before the law, and judicial protection, and the rights of the child, to the detriment of the alleged victims'.[34] Much of the IACtHR's analysis was focused on the impact of *Resolution No 1088*, which provided for the expulsion of the family. The IACtHR also considered the impact this Resolution had on the rights of Mohamed René Al Kassar, who was Argentine by birth and was an infant when *Resolution No 1088* was issued. The latter consideration raises a lot of interesting issues and adds a layer of vulnerability to the circumstances of the family at the time judgment, but will not be discussed in-depth in this case note.[35] Furthermore, Ms Habbal was not adequately informed by the State about the administrative proceedings against her, which hindered her ability to contest them. Instead, this case note focuses on the alleged violation of art 20 (the right to nationality) and will not examine these other important issues raised in the case.

The IACommHR stressed that the procedure for the revocation of Ms Habbal's naturalisation 'should have provided her with procedural guarantees'[36] but a proportionality analysis was not carried out and she was unable to challenge the revocation of her nationality. The *Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Persons and Victims of Human Trafficking* supports this stance, as Principle 25 — on the withdrawal of nationality — establishes that deprivation of nationality must take place with due process.[37] Both

29 ibid.

30 ibid [4].

31 *Habbal et al* (n 4) [45].

32 The IACommHR considered that arts 8(1), 8(2)(b)–(d), (h), 7, 9, 19, 20, 22(1), 22(5)–(6) and 25(1) of the *AHCR*, 'read in conjunction with Article 1(1)', had been violated by the State: ibid [1].

33 ibid [25].

34 ibid [52].

35 In this case, the IACtHR acknowledged the importance of the principle of the 'best interests of the child' and referred to its previous jurisprudence on the matter, in particular, in cases concerning immigration proceedings: ibid [65]–[76]. For a more detailed discussion on this aspect of the case, see podcast episode with guests Ivonne Garza and Christian Gonzalez Chacón: 'Análisis Caso Habbal vs Argentina — Corte IDH', *Estudia Derechos Humanos* (Estudia Derechos Humanos, 10 October 2022) <https://www.youtube.com/watch?v=pb3ndgcJrT8> ('*Estudie Derechos Humanos*').

36 *Habbal et al* (n 4) [87].

37 IACommHR, Rapporteurship on the Rights of Migrants, *Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Persons, and Victims of Human Trafficking* (Res No 04/19, 7 December 2019).

Ms Habbal's representatives and the IACommHR asserted that the State did not consider the possibility that Ms Habbal would be rendered stateless upon being stripped of her Argentine nationality.[38]

In order to determine whether a violation of art 20 of the *ACHR* took place in *Habbal et al*, the IACtHR identified five elements that must be met for a deprivation of nationality *not* to be deemed arbitrary:

1. Respect the principle of legality, so that the individual is not punished for actions and omissions not provided for by law;
2. Respect the right to equality and the prohibition of discrimination;
3. Prevent statelessness;
4. Be proportional, which requires verification of the legitimacy of the aims pursued and the means used by the authorities; and
5. Respect the guarantees of due process, in particular, by providing special guarantees for the protection of children.[39]

The IACtHR then applied this 'test' to the facts of the case. The Court's conclusion following its analysis of whether the State had fulfilled the requirement under the third element — to prevent statelessness — was unexpected. The Court acknowledged that the Acting Federal Judge that ruled on Ms Habbal's case

> did not consider whether Ms Habbal would be rendered stateless due to her renunciation of her nationality of origin. However, ... according to the official entry and exit records, Ms Raghda Habbal entered the Argentine Republic on at least four occasions between 1994 and 1996 as a Syrian and Spanish, as well as an Argentine, national.[40]

The IACtHR decided that there was no risk of Ms Habbal being rendered stateless by being stripped of her Argentine nationality as, according to Argentina, the renunciation of her Syrian nationality had no effect and 'she never ceased to be a national of that State'.[41] However, this conclusion is based solely on the records of her entry into Argentine territory between 1994–96 and an *assumption* that the renunciation of her Syrian nationality had not taken effect. It is unclear if the Argentine authorities had verified that Ms Habbal was still acknowledged as a Syrian national by Syrian authorities before depriving her of her Argentine nationality. After all, establishing whether a person is stateless is 'a mixed question of fact and law'.[42] The fact that she was able to re-enter Argentina on different passports does not mean that she was *not* rendered stateless — even if only temporarily — after her naturalisation was revoked. Acquisition of a new nationality after being arbitrarily deprived of a previously held nationality does not erase the fact that a person was stripped of their nationality and, in some cases, rendered (temporarily) stateless.

This reasoning is particularly odd, given that in the case of *Expelled Dominicans and Haitians v Dominican Republic* ('*Expelled Persons*'), the IACtHR established that:

---

38 Brief with Pleadings, Motions and Evidence (n 6) 55. At the time, Argentina was party to the 1954 *Convention relating to the Status of Stateless Persons*, opened for signature 28 September 1954, 360 UNTS 117 (entered into force 6 June 1960).

39 *Habbal et al* (n 4) [97].

40 ibid [103].

41 ibid.

42 United Nations High Commissioner for Refugees, *Handbook on Protection of Stateless Persons under the 1954 Convention Relating to the Status of Stateless Persons* (Handbook, 2014) [23].

> [I]n the circumstances of the case, this would entail the *risk of statelessness* for the presumed victims, because the State *has not proved sufficiently* that these persons would obtain another nationality. ... Hence, the State's denial of the right of the presumed victims to Dominican nationality resulted in an *arbitrary* violation of that right.[43]

The IACtHR clearly considers it necessary, in the context of deprivation of nationality, for there to be ample evidence that a person has a 'second' nationality or would be able to obtain another nationality if they were denationalised. It is difficult to accept the argument that multiple entries into a state's territory on different passports and the assumption that the nationality of origin was retained constitutes *sufficient* proof that the person did not become stateless at any point after being deprived of their nationality. It can be argued that for the proof to be *sufficient,* the State should have verified through diplomatic channels whether Ms Habbal remained a citizen of another country or only held Argentine nationality and then submitted that evidence to the Court for consideration.

Furthermore, another important issue raised by the IACommHR for the IACtHR to consider was the fact that *Resolution No 1088*, which ordered Ms Habbal's expulsion, was issued after she had already acquired Argentine nationality and that this nationality was only revoked after she had been expelled. In the view of the IACommHR, art 22(5) of the *ACHR* was violated because the Resolution and expulsion order were 'incompatible with a citizen's right to freedom of movement within their own country'.[44] On this matter, the IACtHR pointed out that in establishing immigration policies 'the objectives of such policies must respect the human rights of migrants'.[45] Citing as evidence Ms Habbal's multiple entries into Argentina over the years, the IACtHR ruled that there was no evidence that *Resolution No 1088* had 'interfered in any way with the possibility of the alleged victims remaining in, or entering, Argentina, or otherwise impeded the exercise of their personal freedom'.[46]

B Reparations

It is a widely accepted principle of international law that the violation of an international norm must be remedied; a principle the IACtHR has also established in its jurisprudence.[47] In *Habbal et al*, the IACommHR requested reparatory measures, which included a request for the State to adopt a 'capacity-building policy for national authorities on nationality and migration matters',[48] including several safeguards of the rights of persons in a human mobility context. The

---

43 *Expelled Dominicans and Haitians v Dominican Republic* (*Preliminary Objections, Merits, Reparations and Costs*) (Inter-American Court of Human Rights, Series C No 282, 28 August 2014) [298] ('*Expelled Persons*').

44 *Habbal et al* (n 4) [53].

45 ibid [58]. The Court referred to its jurisprudence on this point, which was first established in *Juridical Condition and Rights of Undocumented Migrants (Advisory Opinion)* (Inter-American Court of Human Rights, Series A No 18, 17 September 2003) [168]; *Expelled Persons* (n 43) [350].

46 *Habbal et al* (n 4) [81].

47 *Factory at Chorzów (Germany v Poland) (Merits)* [1928] PCIJ (ser A) No 17, 27. The IACtHR followed this principle in its landmark case, *Velásquez-Rodríguez v Honduras* (*Reparations and Costs*) (Inter-American Court of Human Rights, Series C No 7, 21 July 1989) [25]. This principle is also codified in art 63(1) of the *ACHR* (n 1).

48 IACommHR, *Habbal et al v Argentina* (*Merits Report*) (Informe No 140/19 [Report No 140/19], Case No 11.69, OEA/Ser.L/V/II.173, Doc 155, 28 September 2019) 5 ('Merits Report').

requested reparations would have provided valuable preventive measures for similar situations in the future and the effects of such reparatory measures would have served as guarantees of non-repetition.[49] However, it could be argued that the 'test' developed by the IACtHR in this case with five specific elements to determine whether a revocation of nationality is arbitrary has that same effect.

In practice, when a law or practice that violates the *ACHR* has been repealed or has ceased taking effect, 'the Court holds that the issue is moot and there is no need for the Court to take further action'.[50] This reasoning was followed in *Habbal et al*, as the IACtHR decided that 'the revocation of Resolution 1088 constituted an adequate reparation'.[51] However, a glaring omission in the IACtHR's consideration was its *Ivcher-Bronstein v Peru* ('*Ivcher-Bronstein*') ruling. In *Ivcher-Bronstein*, the State also acted on the IACommHR's recommendations and revoked the order that denaturalised the Petitioner, 13 years after the fact.[52] The IACtHR nevertheless acknowledged that wider violations of human rights had resulted from the violation of art 20 of the *ACHR*.[53] In *Habbal et al*, the order to revoke *Resolution No 1088* was issued in 2021. During this time — although not acted upon by the authorities — the order put Ms Habbal and her family in a vulnerable position, as they were subjects of an expulsion order that was in place for 30 years. No action was taken to revoke the order that stripped Ms Habbal of her Argentine nationality, and who had spent nearly three decades without redress for the revocation of nationality and the expulsion order to which she had been subjected.

Another point to consider regarding the IACtHR's unwillingness to determine State responsibility and issue reparations in *Habbal et al*, is that there was a 'lack of evidence of specific violations of the rights of the alleged victims'[54] because the victims could not be located, and thus they did not give victim impact statements. In fact, one of the reparatory measures requested by the representatives of the victims was for the State to 'use all available diplomatic channels to locate the victims in Spain, Lebanon, Syria'[55] and the United States, where Mr Al Kassar is currently detained.[56]

An argument could be made that in cases of arbitrary deprivation of nationality and situations of statelessness more broadly, it is not entirely true that the impact of the violation of the right to nationality cannot be known. In the case of *Yean and Bosico v Dominican Republic*, the IACtHR established that 'a stateless person, *ex definitione*, does not have recognized juridical personality, because he has not established a juridical and political connection with any State'.[57] This constitutes a concrete form of harm, as it obstructs a person's ability to perform important functions in society. Furthermore, the impact statelessness has on affected persons

49 *Expelled Persons* (n 43) [461].

50 Jo Pasqualucci, *The Practice and Procedure of the Inter-American Court of Human Rights* (2nd edn, Cambridge University Press 2012) 220.

51 *Habbal et al* (n 4) [83].

52 *Ivcher-Bronstein v Peru* (*Merits, Reparations and Costs*) (Inter-American Court of Human Rights, Series C No 74, 6 February 2001) [179]–[180] ('*Ivcher-Bronstein*').

53 ibid [95].

54 *Habbal et al* (n 4) [83].

55 'Brief with Pleadings, Motions and Evidence' (n 6) 67.

56 Mr Al Kassar was eventually detained in Spain and extradited to the United States. See ibid 22.

57 *Yean and Bosico v Dominican Republic (Preliminary Objections, Merits, Reparations and Costs)* (Inter-American Court of Human Rights, Series C No 130, 8 September 2005) [178].

is widely documented.[58] However, it would have been difficult for the IACtHR to establish specific measures to redress the harm that the deprivation of nationality had directly caused Ms Habbal. In previous cases on deprivation of nationality, such as *Ivcher-Bronstein* and *Expelled Persons*, the victims were known, as was the direct impact that being deprived of their nationality had on their lives.

V CONCLUSION: RELEVANCE IN THE INTER-AMERICAN HUMAN RIGHTS SYSTEM ON THE PROTECTION OF THE RIGHT TO NATIONALITY UNDER ART 20

Ivonne Garza has rightly pointed out that this ruling's main significance is that the IACtHR reaffirmed its previous stances on arbitrary deprivation of nationality and expanded the 'test' to five elements that must be fulfilled for any act of deprivation of nationality *not* to be arbitrary.[59] The IACommHR felt that the case would 'allow the Court to expand its jurisprudence on State obligations in cases of deprivation of nationality and on the prevention of statelessness'[60] and that, despite the ruling not being in favour of the victims, the IACommHR was right in its assertion. On the question of nationality, the IACtHR reaffirmed its previous jurisprudence in stating that nationality is 'a prerequisite for the exercise of certain rights and is also a non-derogable right'[61] and that arbitrary deprivation of nationality deprives individuals of their civil and political rights.[62]

The significance of this ruling should be assessed in light of developments at other human rights bodies. In a 2018 case concerning arbitrary deprivation of nationality, *Anudo Ochieng Anudo v Tanzania* ('*Anudo*'), the African Court on Human and Peoples' Rights established that international law permits loss of nationality only when specific conditions are met.[63] *Anudo* established four criteria;[64] in *Habbal et al*, the IACtHR established five. There is some overlap between the two cases of the criteria that must be met for the deprivation of a nationality not to be arbitrary: that the relevant procedures must be founded on a clear legal basis (principle of legality); that the principle of proportionality must be respected; and that there must be due process. *Anudo* also states that the act must serve 'a legitimate purpose that conforms with international law'.[65] *Habbal et al* also prohibits discriminatory treatment and prohibits deprivation of nationality that results in statelessness.[66]

---

58 See, eg, Brad Blitz and Maureen Lynch, *Statelessness and Citizenship: A Comparative Study on the Benefits of Nationality* (Edward Elgar 2011); IACommHR, *Report on the Situation of Human Rights in the Dominican Republic* (Country Rerport, OEA/Ser.L/V/II, Doc 45/15, 31 December 2015) [197]–[331]. On access to redress for stateless persons under international law, see Maria Jose Recalde-Vela, 'Access to Redress for Stateless Persons Under International Law: Challenges and Opportunities' (2019) 24(2) *Tilburg Law Review* 182.

59 Ivonne Garza and Christian Gonzalez Chacón discuss this further in Estudia Derechos Humanos' podcast: *Estudia Derechos Humanos* (n 35).

60 *Merits Report* (n 48) 5.

61 *Habbal et al* (n 4) [90].

62 *Habbal et al* (n 4) [90]; *Proposed Amendments to the Naturalization Provision of the Constitution of Costa Rica (Advisory Opinion)* (Inter-American Court of Human Rights, Series A No 4, 19 January 1984) [34] ('*Advisory Opinion OC-4/84*'); *Expelled Persons* (n 43) [254].

63 *Anudo Ochieng Anudo v Tanzania* (African Court on Human and Peoples' Rights, App No 012/2015, 22 March 2018) ('*Anudo*'). See Bronwen Manby, '*Anudo Ochieng Anudo v Tanzania (Judgment)* (African Court on Human and Peoples' Rights, App No 012/2015, 22 March 2018)' (2019) 1(1) *Statelessness & Citizenship Review* 170.

64 *Anudo* (n 63) [79].

65 ibid.

66 *Habbal et al* (n 4) [97].

These developments demonstrate that in the opinion of human rights tribunals — in particular, the IACtHR — questions of nationality do not fall solely within the *domaine réservé* of the state.[67] The international legal obligations of states — in particular, their human rights obligations — constrain state sovereignty on nationality matters.[68] This case reinforced the IACtHR's previous jurisprudence on this subject.[69] The main conclusion to be drawn from this analysis is that whenever deprivation of nationality results in statelessness or creates a *risk* of statelessness — as the IACtHR had also established in *Expelled Persons*[70] and reaffirmed in *Habbal et al* — the deprivation is arbitrary.

It took almost 30 years for *Habbal et al* to be resolved at the Inter-American level, with a conflicting outcome. On one hand, the IACtHR expanded its jurisprudence on nationality matters and developed a more elaborate 'test' to determine what constitutes arbitrary deprivation of a nationality. On the other hand, the violations of the rights of Ms Habbal and her family were not redressed. Inconsistencies in the Court's decision-making in this case have been pointed out, especially in light of its previous rulings.[71] *Habbal et al* is a complex case that raises more issues than this case note could possibly address. Perhaps at some point in the future, new cases concerning alleged violations of art 20 of the *ACHR* will be submitted to the IACtHR. Whether the IACtHR is willing to address the gaps and inconsistencies of *Habbal et al* remains to be seen.

---

67 ibid [91], citing *Advisory Opinion OC-4/84* (n 62) [32]; *Expelled Persons* (n 43) [255].

68 See *Advisory Opinion OC-4/84* (n 62) [32]–[33]; *Castillo Petruzzi et al v Peru (Merits, Reparations and Costs)* (Inter-American Court of Human Rights, Series C No 52, 30 May 1999) [101]; *Ivcher-Bronstein* (n 52) [88].

69 The IACtHR has stated that 'the State's "authority" concerning the regulation of nationality is limited by respect for human rights; in particular, by the obligation to avoid the risk of statelessness': *Expelled Persons* (n 43) [292] (emphasis added).

70 ibid [298].

71 See @silviajserranog, 'La @CorteIDH publicó fallo Raghda Habbal v Argentina declarando no responsable al Estado' (X/Twitter, 6 October 2021) <https://twitter.com/silviajserranog/status/1577733979343667220>, archived at <perma.cc/WP85-A7HY>.