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# Human Rights Council

## Minority Issues: Migrant Haitians In the Bahamas

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### Introduction

Rights Bahamas, formerly known as Grand Bahamas Human Rights Association, was founded in May 1986 by a small group of Grand Bahamians to monitor human rights and civil liberties abuses throughout the Bahamas, as well as the wider international community. It is a nonpartisan organization and has no affiliations with the government or with any political party.

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Rights Bahamas agitates for respect by the Bahamian Government of the Universal Declaration of Human Rights and the fundamental rights and freedoms set forth in the Constitution of the Bahamas.

## **Statelessness**

The constitutions of The Bahamas and Haiti both allow the phenomenon known as statelessness to occur. Haitian born migrants in The Bahamas who were not naturalized, their foreign born children inherit Haitian citizenship at birth. However, the offspring of second generation Haitians do not.

Under **Title II, Section 10** of the Haitian Constitution, ***"The regulations governing Haitian nationality shall be determined by law."*** In **Section 11** it further elaborates, ***" Any person born of a Haitian father or Haitian mother who are themselves native-born Haitians and have never renounced their nationality possesses Haitian nationality at the time of birth."***

The Haitian constitution originally written in French has been amended a total of 23 times. Due to this, there is a translation loophole in the Haitian constitution that the Bahamian government uses to prevent further national discussion on the issue of granting citizenship to Bahamian born persons of Haitian descent at birth.

Children are most affected by this and under the Convention on the Rights of the Child the ripple effects are considered to be a gross neglect of their human rights. Most often than not, stateless children go through their entire childhood without a legal document besides their birth certificate. This sole document is not enough. As a result of their lack of proper documentation it prevents them from being able to access education. Even if they somehow managed to get into an elementary, middle or high school, their inability to provide required documentation at registration prevents them from accessing tertiary level education.

As was the case with Jan Pierre and her 11 year old son who was denied access to education for three consecutive years because of The Bahamas' immigration policy.

Her son, a Haitian born in The Bahamas was unable to secure a Belonger's permit due to his mother's status as a non citizen, to be able to register for school.

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At her wit's end she considered the possibility of having to send her son to live with his father in Haiti, a decision that would tremendously affect his ability to gain Bahamian citizenship or giving him up to Social Social Services in order for him to have a better chance at life.

The policy though introduced in November 2014 was only implemented the fall 2015 semester. It mandates that every person living in The Bahamas has a passport of their nationality with proof to legally reside in this country, among other restrictions, like the requirement for every foreign person enrolled in schools, including children born in The Bahamas to immigrants, to have a student permit.

"I also wish to announce that we will as of November 1 require all persons who live in the Bahamas to have a passport of the country of their nationality," Mr Mitchell said. "Those people who have been born here will get a particular residence permit which will allow them to work and live here until such time as their status pursuant to any application under the terms of the Constitution is decided.

"This will also allow access of children to school. This will not apply to the children of those who are here illegally. The Haitian president and the ambassador have confirmed that they will be able to meet the demand for these passports."

**- Former Immigration Minister Fred Mitchell**

Immigration Minister Fred Mitchell explained that the implemented school permit rule would assist the government in keeping track of who works and lives in The Bahamas as well as who attends the schools.

Haitian migrants as a result are forced to pay the annual school permit which costs \$25 along with a \$100 processing fee.

Rights Bahamas and other activists on the ground have been resisting this policy as we consider it to be an attempt to legitimise discriminatory practices against Haitian immigrants.

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Ms. Pierre's whose son was diagnosed with special needs had already been registered at the school and had been going to school but when she attempted to take her child to there that fall semester the principal refused to allow him into the classroom as he didn't have a permit.

Shortly after Ms Pierre's story made local news, recently elected Immigration Minister Brent Symonette gave instruction to all school administrators to accept and admit all students as it was his belief that no child should be denied education because of their status.

"Principals should admit these students to school so that they can maintain their education," he told The Tribune on Sunday. "If there is a difficulty getting a belonger's permit or whatever permit it is that they need, the administrators should email me so that we can regularise those persons' status, so that they can attend school."

- ***Immigration Minister Brent Symonette***

It is said that education opens doors; these doors are simply not accessible for stateless children and the effects follow them into adulthood. They are unable to apply for certain positions for employment and are mostly limited to low income jobs, this prevents opportunities for workplace advancement and them from being able to properly provide for themselves and their families. Therefore, many of them are forced into entrepreneurship as a means to support themselves

"Haitians residing in the Bahamas face widespread social and economic deprivation and are constantly in fear of being detained or deported. Because citizenship in Haiti is acquired by birth within the territory, children of Haitian migrants born in the Bahamas are stateless, at least until the age of 18. Although stateless children are legally entitled to free public education, children of Haitian immigrants were reportedly forced to pay the tuition rates of foreign students or in some cases were denied access to school altogether."

- ***The International Observatory on Statelessness***

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Unable to secure a National Insurance Board card (NIB), migrants are threatened with being laid off. To obtain the card you have to show a document that proves your legal status. However because of the immigration's inefficiency with the naturalization process, persons could be waiting for years to receive an NIB though its tax deductions would be coming out of their pay cheque every time that they are paid. In addition to this they may not be able to access pension or sick benefits.

Stateless persons are unable to utilize freedom of movement as their lack of citizenship prevents them from being granted a passport.

Access to healthcare isn't denied but it isn't as accessible due to migrants having to pay an extra fee at the public hospital.

Lack of policy that gives them a set amount of time to deal with processing citizenship applications prevents Haitian Bahamians for seeking the full benefits of the right to life and the pursuit of happiness. One simply cannot buy land, go to college, travel outside of the country, advance your career, etc.

It has been reported that due to this lack of policy, a number of persons who apply for their citizenship do not get it within a reasonable time frame. Persons have had to wait 5 to 20 years after applying at 18/19 years of age to gain their citizenship. Life for that person continues and develops into a cycle of intergenerational poverty when that person has children who by extension are born stateless too as they're limited on what they can do and provide for their child.

### **Nationality Act**

The Nationality Act of The Bahamas allows for the prevention of Bahamian men from transferring their citizenship to their children born out of wedlock. This also allows for statelessness to occur.

"The Bahamas remains the only country in the Americas that prevent mothers from conferring nationality to children on an equal basis with fathers.

Currently, women citizens of The Bahamas automatically confer nationality to children born in each country, though they do not have the right to confer nationality to their children born

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abroad. Bahamian women also do not have the right to confer their nationality to foreign spouses – a right that is reserved for men.

Under current laws in The Bahamas and Barbados, children of women citizens born abroad are at risk of being stateless: if those children are unable to acquire their father's citizenship or citizenship in their territory of birth, they will be rendered stateless."

- Americas Network on Nationality and Statelessness

## **Recommendations**

Rescind and restructure the immigration policy to make it less discriminatory.

Revisit and restructure the believer's permit by removing the expiry date in order for children born to foreigners can receive its full benefits until they are sworn in as citizens. Benefits such a freedom of movement, access to education, healthcare, etc.

Allocation of funding to surveys that are targeted towards establishing how many stateless persons of Haitian descent (and other nationalities) are residing in The Bahamas.

Allocation of funding and resources to NGOs working with Bahamian born stateless persons.

To abide by the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) where in Articles 15 and 24 it states to provide every child the right to nationality.

Allocate funding to the sensitization of Bahamian citizens regarding migrants to The Bahamas in order to address xenophobia and discrimination towards migrants.

To ratify the Convention relating to the Status of Stateless Persons.

To The International Convention on the Protection of the Rights of All Migrant Workers

To acknowledge the International Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

To ratify the Convention against Torture and other Cruel, Inhumane or Degrading Treatment of Punishment.

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Accelerate the amendment of the Nationality Act where it discriminates against women conferring their nationality to children born abroad and foreign born spouses as well as men who have children out of wedlock.

Allocate funding and resources to properly training Immigration Officers on how to embark on their duties without mistreating, abusing or discriminating against migrants.

### **References:**

#### **Tribune 242**

*New Rules Tackle Immigration Issues*

<http://www.tribune242.com/news/2014/sep/18/new-rules-tackle-illegal-immigration/>

#### **Statelessness**

*The International Observatory on Statelessness*

<http://www.nationalityforall.org/bahamas>

#### **Tribune 242**

*What Kind Of Policy Keeps Children Out Of School?*

<http://www.tribune242.com/news/2017/sep/19/what-kind-policy-keeps-children-out-school/>

#### **Tribune 242**

*Schools told to admit migrant pupils*

<http://www.tribune242.com/news/2017/sep/25/schools-told-admit-migrant-pupils/>

#### **Americas Network n Nationality and Statlessness**

##### **Concerns**

<http://www.americasns.org/the-bahamas-and-barbados/>