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# PART II

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## Democracies as Engines of Forced Displacement

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## CHAPTER 3

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### The Bahamas: Neither Fish Nor Fowl

The social reality is that we have a very large number of persons in this society of Haitian extraction who have a very dubious status in The Bahamas; neither fish nor fowl. They don't qualify for Bahamian citizenship constitutionally and conversely there are issues as to whether they have retained Haitian citizenship.

—former governmental official; personal interview

When we think about forced displacement, the Caribbean is not necessarily the first place that comes to mind, even though hurricanes and earthquakes do forcibly displace people within their island homes. Instead, we tend to think of the region as a prime tourist destination, a place where we can relax on the beach, play in the casinos, hike through tropical forests, visit wetlands, and an array of other such similar activities. “Paradise.” Yet for an untold number of people, this paradise has become an inferno. Far from a world of blurred boundaries, flexible citizenships, and denationalized rights, these stateless—or at risk of statelessness—populations find walls erected against their belonging at nearly every turn. Unable to secure any effective citizenship, their rights are highly precarious and they are displaced in situ.

While states have created an intricate web of domestic laws to distinguish who has membership in the polity, the right to belong formally to a state via citizenship is conditioned by other factors as well. Political practices, bureaucratic procedures, and discrimination also play their part in determining who belongs. The fulfillment of one's human right to a nationality is thus far more complex in practice than simply determining to whom (*jus sanguinis* citizenship acquisition) and where one was born (*jus soli* citizenship acquisition).

Through the case study of The Bahamas, this chapter illustrates how exclusionary citizenship laws, electoral politics, bureaucratic inefficiencies, and cronism work together to displace Bahamian-born persons of Haitian descent into liminality or into the category of Haitian national without consent.

### Situating the Case Study

The Bahamas is a chain of over seven hundred islands and cays off the coast of Florida. Its northern tip, located in the Abacos, reaches as far north as West Palm Beach, Florida, while its southern land mass extends as far as southern Cuba. Great Inagua, the most southerly island in the archipelago, lies less than eighty-five miles from Port-de-Paix, Haiti. Despite their geographical closeness, The Bahamas and Haiti could not be more distant in terms of economic, political, and human development. With a Gross National Income (GNI) of \$21,280 per capita, The Bahamas is considered a high-income developing country (UNCTAD 2012, xii, xvi; World Bank 2013a). Haiti, on the other hand, is considered a “heavily indebted poor country” (UNCTAD 2012, xv), with a GNI of only \$760 and with more than 75 percent of its population living in poverty (World Bank 2013b). Although The Bahamas’ unemployment rate is high at nearly 13 percent (Government of The Bahamas 2016, 17), it pales in comparison to the estimated 70 percent or higher unemployment rate in Haiti (Bergdahl 2012 n. pag.).

In comparison to the peaceful transitions of power in The Bahamas, Haiti has undergone numerous political challenges since the 1950s.<sup>1</sup> From political violence and the dictatorships of the Duvaliers to coups d’état and environmental catastrophes—such as the 2010 earthquake that destabilized much of the country and left hundreds of thousands internally displaced—Haiti is far from the “Pearl of the Antilles” that it once was. Due to The Bahamas’ proximity both to Haiti and to the United States, its stronger economy, and the fact that it outranks Haiti in education, healthcare, sanitation, and other measures of the UN Development Programme’s Human Development Index (UNDP 2013b),<sup>2</sup> it is unsurprising that Haitians migrate to The Bahamas, whether temporarily or permanently, in search of a better life. In fact, and noted in Chapter 1, The Bahamas is one of the top three destinations for irregular Haitian migration (IOM 2013, 23).<sup>3</sup>

Although the precise number of irregular Haitian migrants in The Bahamas is unknown, hundreds, if not thousands of Haitians are speculated

to migrate to the country each year through irregular or unauthorized channels. Many of these migrants remain in The Bahamas. According to the latest census numbers, 11 percent of the Bahamian population<sup>4</sup> is made up of Haitian nationals<sup>5</sup> (Government of The Bahamas 2012, 89 and 90, Table 9.0), but this figure does not capture the undocumented population,<sup>6</sup> which is notoriously difficult to enumerate. Many of these migrants have children in The Bahamas, some of whom are at risk of becoming stateless.

### The Legal Context

Bahamian nationality law is neutral in theory. Thus, while Dawn Marshall argued that The Bahamas Independence Order of 1973 “further restricted the possibilities for children born of Haitian parents in the Bahamas to claim Bahamian citizenship” (1979, 127), neither the Bahamian Constitution, nor any of The Bahamas’ Acts addressing nationality—such as Chapter 190/Bahamas Nationality Act and Chapter 191/Immigration Act—specifically target Haitian migrants or their descendants when it comes to the acquisition of Bahamian citizenship. The qualified nature of the *jus sanguinis* and *jus soli* provisions of the Constitution applies equally to all persons born of noncitizens on the territory.

Nationality acquisition is qualified in the following ways: a child born in The Bahamas may only become a Bahamian citizen if one of his or her parents is a Bahamian citizen (Government of The Bahamas 1973a, Article 6). This Article is not specific to any particular race or ethnicity. Those individuals born in the country, neither of whose parents is a Bahamian citizen, are permitted to apply for Bahamian citizenship through registration within twelve months of turning eighteen (Article 7), but there is no guarantee they will obtain Bahamian citizenship. As a former Free National Movement (FNM) official makes clear, “it’s not an automatic entitlement.”<sup>7</sup> Statelessness is therefore a possibility if the child does not possess another nationality. Those who miss the eighteen- to nineteen-year-old application window must go through the regular naturalization procedure, a more involved, time-consuming, and costly process than registration. It is of note that being born in The Bahamas does not provide any benefit in expediting the naturalization process for those who miss the one-year registration window. As an official from the Ministry of Foreign Affairs (MFA) makes clear, “*The fact that the individual was born in*

*The Bahamas has no bearing on the application for naturalization*” (italics added).<sup>8</sup>

The Bahamian Constitution states that only the governor-general is able to deprive a Bahamian national of citizenship (Government of The Bahamas 1973a, Article 11), but adds that Parliament has powers to deprive and bestow citizenship on persons by means that are not addressed in the Constitution (Article 13). Chapter 190/Bahamas Nationality Act (1973b) provides more extensive details regarding the acquisition and loss of Bahamian citizenship and also discusses the provision of nationality to non-Bahamian adopted children and minors generally. It details the reasons for loss of Bahamian citizenship, which include acquiring Bahamian citizenship through fraudulent means, committing a crime within five years of obtaining said citizenship, or demonstrating disloyalty to the country, among other criteria, if a naturalized citizen or a citizen via registration (Article 11.2). Again, in none of these cases are individuals of Haitian descent—or of any other particular ethnicity—specifically targeted.

What is of note is that the Nationality Act provides extraordinary leeway and power to the minister in charge of naturalization and immigration, which today falls under the portfolio of the minister of foreign affairs. In a thirteen-page act, not including the final two pages that deal with schedules of different types, the phrase “the Minister may at his discretion” appears ten times. The minister may thus grant and revoke citizenship at his or her discretion, often without having to confer with any other governmental body. Even when the minister is supposed to refer a case of citizenship deprivation to a “committee of inquiry,” which then recommends whether or not said deprivation should take place, the minister is under no obligation “to act upon or in accordance with any such recommendation” (Article 11.8). Moreover, any decision of the minister regarding citizenship acquisition or deprivation is not subject to judicial review:

The Minister shall not be required to assign any reason for the grant or refusal of any application or the making of any order under this Act the decision upon which is at his discretion; and the decision of the Minister on any such application or order shall not be subject to appeal or review in any court. (Article 16)

In practice, however, questions regarding the grant of citizenship are typically performed by cabinet, which consists of the ministers of the executive

branch of government, and not by the minister “in charge of naturalization and immigration.” As one former minister of the FNM government explains, a citizenship application “goes before Cabinet, and Cabinet considers it” or the citizenship application goes to the minister of foreign affairs who “prepare[s] a Cabinet brief” and then sends that brief to cabinet to consider.<sup>9</sup> The entire cabinet then decides on the basis of consensus whether to grant or deny citizenship to an individual. Alfred Sears, former attorney general of The Bahamas (2002–2006) and former minister of education, science, and technology under the Progressive Liberal Party (PLP) administration admits that such a procedure often “takes up a lot of cabinet time” because each application is dealt with individually, making it a “cumbersome” process.<sup>10</sup> It remains, however, that these cabinet citizenship decisions are not subject to judicial review. As I illustrate, this is highly problematic given that the practice of granting Bahamian citizenship is highly politicized and fraught with bureaucratic inconsistencies.

### The Political Context

In “Client-Ship and Citizenship in Latin America,” Lucy Taylor explains how clientelistic practices and charismatic leaders have shaped Latin American politics. Clientelism, she explains, “is not about equality but inequality . . . it is not about rights but about favours . . . it is not about democracy but about negotiated authoritarianism . . . [and] Finally, it is not about formal relationships but personal ties” (2004, 214). Her comments are applicable to the broader region, including the Caribbean. While The Bahamas is far from being an authoritarian state—as I explain in Chapter 1, it is considered a democracy—favoritism and the use of personal ties (cronyism) to achieve a particular good or political gain has plagued much of its post-Independence history, infiltrating the realm of citizenship determination.

Sir Lynden O. Pindling, the individual who led the country to Independence and who became the country’s first prime minister, is heralded as the “Black Moses” among many Bahamians. “I just remember people worshipping him. . . . He was always this grand myth to me,” says Travolta Cooper, the writer and director of the “Black Moses” documentary on Sir Pindling (Nicolls 2013). Sir Pindling’s PLP government, which lasted twenty-five years (1967–1992) was accused of corruption and cronyism from many sectors of society, both Bahamian and abroad (Dahlburg 1982; Freedland 1992). As



Frederick Donathan explains, “The government’s tentacles spread very far. . . . You got accustomed to thinking, ‘I better vote for the old regime, in case they get in again’” (qtd. in Freedland 1992). When Hubert A. Ingraham, the then leader of the opposition FNM became the second prime minister of The Bahamas in 1992 he vowed to create a “government in the sunshine” where transparency and fairness would reign (Freedland 1992; see also I. Smith 2012).

A “government in the sunshine” never transpired, however, and accusations of corruption and cronyism continue to the present day. The PLP is once again in power and former prime minister Ingraham recently lambasted the party for “victimising” civil servants and removing them from their jobs because they are not PLP supporters (Evans 2012). Current FNM leader, Dr. Hubert Minnis recently published a statement on the PLP government’s “Unadulterated tribalism, cronyism and out-and-out nepotism!” (*Bahamas Weekly* 2012 n. pag.). The PLP has also issued its fair share of corruption and cronyism accusations against FNM administrations as well (S. Brown 2013).

Just as Taylor finds that a “goods-for-power” deal operates in many Latin American countries, wherein “People support a certain patron because they gamble that to do so will improve their own or their family’s prospects” (2004, 215), Bahamian politics seems to be infused with such a mentality. When it comes to Haitian migrants and their descendants, the “good” is citizenship and no matter the party in power (PLP or FNM) this good suddenly becomes more readily available prior to a general election.

Study participants, Haitian and non-Haitian alike, remark that the number of citizenships awarded to foreigners escalates around election time. As one anonymous interviewee laments, “There’s the issue of the politics of citizenship in terms of who gets it. How is it awarded? It’s a cabinet decision—there is just so much room for abuse, with so much room for timing it to coincide with elections. It’s a seriously flawed approach.”<sup>11</sup> Gwendolyn Brice-Adderley, a lawyer for the Nationality Support Unit<sup>12</sup> in Nassau, adds that “I know around election time some of those applications are fast forward.”<sup>13</sup> While Harry Dolce, a Bahamian-born police officer of Haitian descent who went through the citizenship registration process, explains how “you’ll have certain times during the election period” where “they’ll hold your citizenship—no matter if you’ve applied three years ago, two years ago. But when it comes time to election, [they say], ‘Okay, we’re gonna give you your citizenship. Okay, you’re a Bahamian.’”<sup>14</sup> George Charité, a medical doctor of Haitian

descent on the island of Abaco, similarly affirms that “It could take elections” for individuals’ citizenship applications to be considered. “They normally get up around election time,” he says, “they make them citizens. So pray to God and thank God for elections. Election coming up. . . . Most likely you’ll get [citizenship].”<sup>15</sup> Such allegations are not limited to study participants either. The *Bahama Journal* (2013) cites Lovy Jean, a Bahamian-born student of Haitian descent who spoke before the Bahamas Constitutional Commission,<sup>16</sup> stating that difficulties exist in getting Bahamian citizenship unless “you’re lucky during a general election [and] you’d get it right away.”

Newspaper articles and letters to the editor also report on the regularization of “hundreds” of Haitian nationals as Bahamian citizens prior to elections as a means for the ruling party to increase its vote share.<sup>17</sup> The *Nassau Guardian*, for example, states that “a monthly average of 31” citizenship applications were approved “between May 2, 2007 and June 30, 2010” for a total of “1,144 citizenship applications” (McCartney 2011). This number more than doubled to “a monthly average of about 75” applications “between November 18, 2011 and January 13, 2012”—less than four months prior to the 2012 general election (2011). According to then deputy prime minister Brent Symonette of the FNM party, the increased number of citizenship approvals was due to “improved efficiencies” regarding “applications that had been languishing for many years” within the Department of Immigration (DoI) (2011)<sup>18</sup> and not because of politically motivated reasons.

Archival data I obtained from the Haitian Embassy in Nassau point to an increased number of Haitian nationality renunciations in the years prior to the 2007 and 2012 general elections (see Table 1). This is of note because, as part of the Bahamian citizenship application process, a person must renounce his or her current nationality in order to be eligible to be sworn in as a Bahamian citizen. Table 1 demonstrates that 359 Haitian nationals renounced their nationality in 2006, or an average of 29 individuals per month. This number increases to an average of 41 renunciations per month in the period of January through April, 2007, just prior to the May 2 general election. In relation to the aforementioned statistic provided in the *Nassau Guardian* article—1,144 Bahamian citizenship conferrals in the period May 2007 through June 2010—the data in Table 1 illustrates that 543 persons renounced their Haitian nationality during this period.

Without data from the Department of Immigration listing the number of former Haitian nationals who obtained Bahamian citizenship during this time, there is no way to know whether these 543 individuals (47 percent of

Table 1: Haitian Nationality Renunciations by Year, 2003–2011

	2003	2004	2005	2006	2007	2008	2009	2010	2011
Janvier	2	21	1	20	39	13	30	20	38
Février	10	11	2	3	26	16	22	17	25
Mars	4	5	2	16	66	20	18	15	60
Avril	5	4	39	15	33	38	12	7	24
Mai	3	12	74	29	21	9	9	7	26
Juin	1	4	32	33	13	10	7	24	14
Juillet	1	7	14	66	10	9	12	27	13
Août	2	2	10	40	16	14	9	21	28
Septembre	5	1	17	51	17	12	3	34	60
Octobre	41	4	15	28	24	10	6	32	74
Novembre	16	4	16	35	9	19	3	38	119
Décembre	16	2	7	23	3	27	12	25	73
<b>Total</b>	<b>106</b>	<b>77</b>	<b>229</b>	<b>359</b>	<b>277</b>	<b>197</b>	<b>143</b>	<b>287</b>	<b>554</b>

Source: Original printout provided to the author by Ambassador Rodrigue, Haitian Embassy, Nassau, Bahamas, October 31, 2012. Total of 2,229 renunciations.

the 1,144 persons) obtained Bahamian citizenship or what the nationality was of the other 53 percent of Bahamian citizenship recipients.<sup>19</sup> In email correspondence from the Ministry of Foreign Affairs, the MFA notes that the Department of Immigration “does not have statistics on the number of applications for citizenship each year. However we do have statistics on those persons who are sworn in as citizens. On average, between 265 and 400 such persons are sworn in each year since 2007.” If we assume that these 543 persons in Table 1 obtained Bahamian citizenship, it appears that Haitian nationals make up a large proportion of naturalized Bahamians during this three-year period. This is not surprising, however, given the aforementioned statistic that Haitians make up 11 percent of the Bahamian population, which is the largest foreign presence in the country.

Whether former Haitian nationals are the recipients of the majority of these grants of Bahamian citizenship, it appears—in the words of Haitian ambassador Antonio Rodrigue—that “The question of citizenship is very political here [in The Bahamas].”<sup>20</sup> As Ambassador Rodrigue observes, pointing to the data in Table 1, the trend of Haitian nationality renunciations prior to general elections holds regardless of which political party is in power (see Figure 4 for a graphic depiction of the preelection peaks):

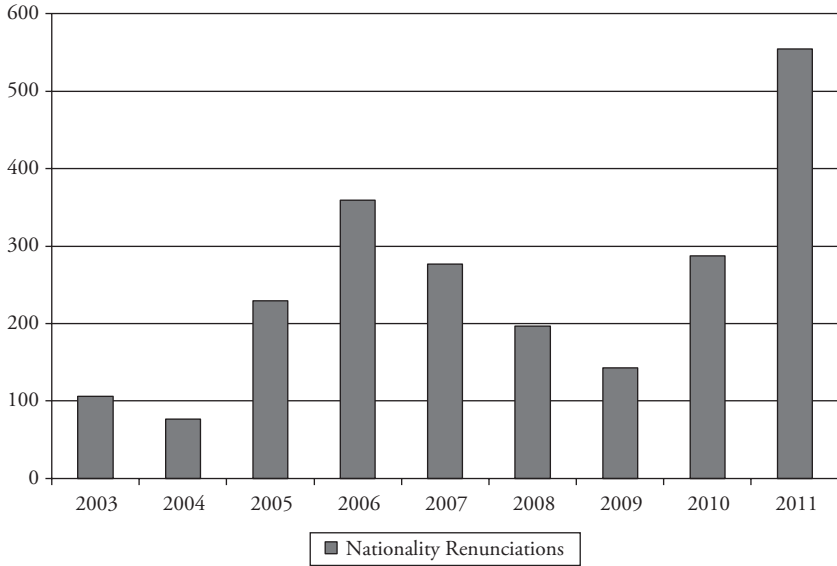


Figure 4. Renunciation peaks before 2007 and 2012 Bahamian general elections.

When you are close to the election, it [the number of renunciations] rose. After the election, here, the number is almost close to zero a month. And when you go getting close to the election, there's a peak. There's a peak. In this formulation of 2002, 2007, and 2012 you can see that. So each government . . . before the election, they issue a lot of citizenships.

The politicized nature of Bahamian citizenship bestowal is not merely reflected in data held at the Haitian Embassy or in Bahamian newspaper articles, however. As the study participants make clear, obtaining Bahamian citizenship is often predicated on knowing someone in the Department of Immigration or elsewhere in government who can do you the “favor” of granting you citizenship. Formal politics and informal personal connections thus have an equally significant influence on citizenship decisions in The Bahamas.

### Bureaucratic Failures

Describing the reality of Latin American politics, Taylor states that “the only way to get anything done is to ‘pay an extra fee’ or ask a ‘friend’ to cut through the red tape on your behalf” (Taylor 2004, 213). Taylor may as well have been writing about the Bahamian case as her quote aptly captures one of the problems associated with bureaucratic failure in The Bahamas: going through official channels, and following the rules to acquire the “good” of citizenship does not necessarily translate into the most efficient way to obtain Bahamian citizenship. As artist Bernard Petit-Homme explains, he applied for Bahamian citizenship when he turned eighteen, but it took him three years to acquire citizenship, despite being born in the country and meeting all the requirements. He thinks it probably would have taken longer to acquire Bahamian citizenship if he had not run into a former high-ranking government official who had a friend in the Department of Immigration who was able to act on Petit-Homme’s application. “They called me the following week to say it is ready. So that’s how I got it,” he says.<sup>21</sup>

Desmangles similarly observes that “It’s all about networking and who knows who in some instances.” He adds that in his case, “it came to a point where I had to think for myself, ‘Who do I know out there? Who can assist me? Who can make this possible?’”<sup>22</sup> Bianca Zaiem, born of noncitizen parents in The Bahamas, also remarks that “a lot of people get citizenship by doing favors for other people. And I feel like that’s hurt us over the years. So normal people like me who want to do it the right way are pushed aside for somebody who’s getting a favor done by somebody else.”<sup>23</sup> Natacha Jn-Simon, a College of The Bahamas student, adds that sometimes these “favors” take on a more sinister tone:

You know what they have the Haitian kids subduing to? It’s like okay, I’m a female, right, and you’re in Parliament or [you’re] someone who is connected with government. And let’s say you see me on the road or something, and you see that I look nice. And people have to realize that just as they say poverty is like a state of mind, you feel encapsulated, wherever you see a way out, it’s what you’re gonna do. So when these young ladies see these men [who say], “Oh, I’m gonna help you. I’m gonna do this for you. I’m gonna help you do this.” That’s how a lot of them get their citizenship you know. This guy said, “Okay, well, just be my friend.” You understand? “I have

Table 2: Participants Born to Noncitizens in The Bahamas

<i>Participant</i>	<i>Born in The Bahamas?</i>	<i>Applied at age 18?</i>	<i>Length of time to acquire Bahamian citizenship</i>
Mark Desmangles	Y	Y	1 year
Harry Dolce	Y	Unsure <sup>a</sup>	3 or 4 years
Luzena Dumercy	Y	N <sup>b</sup>	2 years
Gillard Louis	Y	Y	3 years
Bernard Petit-Homme	Y	Y	3 years
Natacha Jn-Simon	Y	Y	Currently under consideration
Marie St. Cecile*	Y	N	8 years
Bianca Zaiem	Y	Y	14 years

\*Name changed to protect anonymity, as per interviewee's request.

<sup>a</sup>Dolce says, "I think I applied at 18," but is unsure as he "wasn't kind of interested anymore" because of the way the Department of Immigration was treating him at the time. He admits, however, that "at a certain point you say, 'Listen here, okay, I am going to do it.' You have to comply and complain afterwards."

<sup>b</sup>Dumercy began the process at eighteen but due to a number of complications submitted her application three days after she turned nineteen. As a result, she had to begin the process again, but under a new procedure—naturalization—with additional requirements and costs since she had missed the one year window in which to apply via registration.

friends, I know people in immigration. I could get your stuff out."  
It's sad.<sup>24</sup>

As illustrated in Table 2, most Bahamian-born participants of noncitizen parents waited several years to hear back from the Department of Immigration on their citizenship application. Desmangles believes this is not uncommon. He thinks maybe one out of a hundred applicants will acquire their citizenship three to six months after they apply for it, but the other "99 of them, they're gonna have to wait until five years to get it." Ambassador Rodrigue notes that if a person applies for citizenship after the one-year mark beginning at age eighteen then "It can take up to 12 years. I've had people say they were waiting for 12 years. It can take 5 years, 8 years, 10 years. Because now you are going through another type of process. Between 18 and 19, it's like almost a natural or normal process to get it. But after 18, after 19, I don't know."<sup>25</sup>

While in Nassau, I was able to read an award of citizenship letter from the Bahamian government that was dated May 21, 2012. The person to whom

the letter was addressed had applied for Bahamian citizenship on May 2, 1997. It took a decade and a half for the Department of Immigration to make a decision on that individual's application.<sup>26</sup> Whether or not this is an example of an extreme situation, Marie St. Cecile, born in The Bahamas to Haitian parents, remarks that her parents were able to acquire Bahamian citizenship before she did. St. Cecile did not apply for Bahamian citizenship at eighteen because "I basically didn't know that I should, that you should apply at 18 at that time. So I applied late."<sup>27</sup> She adds that she thought that "once I applied, I would automatically get it because of my age and all that stuff," but that this was not the case. She had to wait eight years for the Bahamian government to give her citizenship and, in that time, her Haitian-born parents obtained Bahamian citizenship:

my dad got it a year before me and my mom afterwards because my dad gave my mom residency because they were married and he got his own before me. . . . And you know, even though that's my dad, I was saying, you know, I don't understand the system. How come he could get his own [Bahamian citizenship] first and I could get mines afterwards? So that really made matters worse.

St. Cecile adds that she even approached a person whom she knew at the Department of Immigration to explain to her why her Haitian-born parents obtained Bahamian citizenship before she did: "they could not explain that. 'I don't know. I really can't tell you.' He [my dad] knew someone there and he got his own before me."

In addition to the clientelism displayed by some public officials and civil servants in the citizenship application process, a second bureaucratic failure is the inefficiency with which citizenship applications are processed. Beside Marie St. Cecile, who did not apply for citizenship within the one-year time frame, the duration of Zaiem's case for Bahamian citizenship stands out because she did apply during the requisite period. As Zaiem, who applied for Bahamian citizenship in 1999, explains, she received a phone call from the Department of Immigration the day after the PLP obtained power in 2002, "saying that they don't have my paperwork. It's lost. So, every time I called before that, they were 'dealing with it,' they were 'dealing with it.' 'These things take time.' 'There's a huge list of people'" and then, all of a sudden, her file went missing.

Once she received the call that her application was lost, Zaiem began the application process again. In fact, she states that she “ended up having to do the whole process. . . . Three times” because the paperwork for her application was again lost by the Department of Immigration. Jn-Simon, currently in the process of applying for citizenship, explains how her brother faced a similar situation when the Department lost his application documents. “They always lost a birth certificate. ‘Bring it again.’ They always lost something. ‘Bring it again.’” Two years into the application process, the Department of Immigration is still requesting additional documents from her brother.

Dolce was constantly told to come back with other documents when he tried to apply for citizenship at eighteen. “They tell you, ‘Listen here, we need this document.’ They keep turning you around and sometimes you get discouraged.” Dumercy agrees, stating that even when you provide them with all the documentation required on the citizenship application form, “every time you come, they ask you for these other documents. . . . They say, ‘Oh, you need this and that.’” She says that the additional documents are not always “easily, readily available” or are “not on the [application] form. So why didn’t you tell me that [I needed these documents] the first time? [And] why are they asking for that?” She reveals that this kind of bureaucratic inefficiency causes many potential applicants to “just give up” and she almost did, too. Whether or not it is the intention of some persons within the Department of Immigration to discourage persons from completing the citizenship application process—hence the “lost” documents and requests for additional documents—the process does appear arbitrary in nature and provides ample leeway for some persons to engage in discriminatory acts under the guise of bureaucratic inefficiencies.

Even when documents are not lost or “extra” documents are not requested, a few interviewees lament the lack of communication they received from the Department of Immigration regarding their application status. Petit-Homme relates,

There is no communication between you and the Department of Immigration. You know, no one updating you to say what you might be missing or what other things are necessary. It’s just that you go up there, or you follow them and they say, “Well, it’s not been approved as of yet.” They’re “still looking at it,” which never makes sense to me, you know. There’s not a definite time to respond [to applicants].



Gillard Louis, a College of The Bahamas student, states that “there was no run-around in terms of missing documents. However, there was a back-and-forth for me in terms of checking. I had to keep a constant check. It got a bit frustrating at a point. It was a bit frustrating because my thing is, don’t give me a date to come back and then tell me when I reach that, you know, it’s not ready or come again.”<sup>28</sup>

In some cases the problem was not only that documents were lost or that individuals were told to come back at another time with additional documents that were not part of the original application, but that once approved for Bahamian citizenship, it took them an inordinate amount of time to actually be sworn in as a Bahamian citizen. Dumercy explains that her Bahamian-born sister’s application for Bahamian citizenship was approved in less than a year—“one of the quickest [turnarounds] I’ve known thus far”—but it took more than a year for her sister to be sworn in. When asked why it took so long, Dumercy says, “They didn’t have any swearing in going on” or, if they did, “they just didn’t let her know.”

Zaiem’s story is once again extraordinary in this regard. After finally receiving her letter of citizenship approval from the Department of Immigration, she “was told that within three weeks<sup>29</sup> I’d get a phone call stating when to come in to get sworn in. That didn’t happen for about a month and a half, and me still calling every week. You know, they’re ‘checking on it.’ ‘They’re checking on it.’ I’m straight. It’s just the next one [swearing-in ceremony] I’m gonna be in.” Finally Zaiem “got a phone call saying, ‘Be here’ . . . [The DoI employee] said, ‘Two o’clock on Thursday.’ She told me what to wear. She told me to be there 45 minutes early. I show up, this was in July. Yeah, I show up, and they have a note on my file saying, ‘Could not be contacted.’ And they said, ‘Well, we tried these numbers’” and the numbers they had called were from her second application, “the one that they had lost. So, it was from my job that I worked at like ten years ago. So I told them somebody did contact me. ‘It’s too late. You’re not on the list’ [they said].”

Zaiem had reached her breaking point. She had now been without any citizenship for six months, having already renounced her former nationality as part of the application process, and she had shown up at what was supposed to be her swearing-in ceremony, only to be denied entry because of bureaucratic errors within the Department of Immigration. A month later she was finally sworn in as a Bahamian citizen in the country of her birth. “The only reason” she believes that she made it onto “that list was because at this point, which is really stupid of me, I should have done this ten years ago,

I involved somebody.” She called a family friend who knew the then director of immigration who ensured that she was included in the next ceremony and was sworn in as a Bahamian citizen.

In addition to the clientelism and bureaucratic inefficiencies, a third reason that allows for the politicization of the citizenship application and bestowal process in The Bahamas is the lack of transparent or clear guidelines regarding the process. I interviewed several people who were involved in the citizenship application process within the highest echelons of the Ministry of Foreign Affairs and the Department of Immigration. None of these persons was able to provide me with a definitive answer on how long it takes for a person to be sworn in as a Bahamian citizen after receiving his or her approval.

One participant from the Department of Immigration stated that individuals are sworn in “right away. Right away. We don’t hold up with that. If you renounce [your original citizenship] today—it’s been approved by cabinet last week—you renounce today, in the next swearing in exercise, we ensure that you are on the list.”<sup>30</sup> This individual was unsure, however, as to how many swearing-in exercises had occurred for the year or how long the average wait time was to be sworn in. Another participant, who worked in the MFA, declared that it was “a matter of days” for a person to get sworn in,<sup>31</sup> while a third admitted that “we try to do it quickly”—and when asked what the average of “quickly” was, stated, “I’d say a few weeks.”<sup>32</sup> Comments such as these, along with the absence of official, publicly available data on citizenship processing, belie a lack of standardized procedures that results in inefficiency and undue personalization of the citizenship application process.

These comments from government officials stand in stark contrast to the aforementioned stories given by the Bahamian-born interviewees of noncitizen parents. Beside Dumercy’s sister and Zaiem, Dumercy had to wait four months between renunciation and Bahamian citizenship acquisition. Louis thinks it was closer to “two months” in his case and Petit-Homme recalls it “happening in a matter of months.” Dolce, while unable to remember how long it took for him to be sworn in as a Bahamian citizen, tells the story of his friend “who recently gave up her Haitian citizenship and it took her like up to, I would say, two or three months.” He says that others also “wait for two months, three months. I know it doesn’t take days. I know [that] for sure.”

Email correspondence from an administrator at the MFA—as opposed to the aforementioned quotes from elected officials—is more in line with the

interviewees' experiences. This official notes that "The time between the submission of the [renunciation] documents and the swearing-in ceremony can range on average between three (3) and six (6) months."<sup>33</sup> Thus despite the fact that government officials contend that individuals are quickly sworn in as Bahamian citizens once approved by cabinet, the experiences of the interviewees born to noncitizen parents in The Bahamas contradicts this assertion.

Beside the arbitrariness in the waiting period to be sworn in as a Bahamian citizen and the inefficiencies in communicating when a person is to come in for a swearing-in ceremony, ceremonies are sometimes cancelled as well. This is particularly problematic for individuals who live in the Family Islands and who have to make a special trip—and all the costs associated with that trip—to Nassau for the ceremony. Dumercy, for example, traveled from Abaco to Nassau for her swearing-in ceremony only to receive a call from the Department of Immigration that it had been cancelled once she "was already in Nassau." If an individual does not have family or friends with whom to stay, or if the next swearing-in ceremony is a week or longer away, the cost of waiting in Nassau can be prohibitive in terms of employment, living expenses, and personal time commitments.

It is important to emphasize that in all these cases, during the interim between renunciation of one's former nationality and the acquisition of Bahamian citizenship, the individual is *de jure* stateless. He or she is *not* formally covered under the operation of any state's law, whether in theory or in practice. For as the approval letter from the MFA states, "At the time of registration, you will be required to take an oath as prescribed by Regulation 7 of The Bahamas Nationality Act, 1973 and thereupon *from the date of registration you will be a citizen of The Bahamas*" (italics added). Statelessness is thus a very real possibility in The Bahamas.

### Statelessness

As noted in the previous section, as part of the process of acquiring Bahamian citizenship, an individual must renounce any citizenship that he or she holds and provide proof of this renunciation to the Department of Immigration. Although this is the last part of the process—an individual is not required to give up his or her citizenship until said person receives the approval letter to become a Bahamian citizen from cabinet via the Department of

Immigration—the participants’ aforementioned experiences demonstrate that a person can be without the citizenship of any state for several months, and in some cases up to a year. This is a highly problematic position for someone to be in, as I demonstrate in Chapters 2 and 5.

Although a DoI official admits that persons could fall into the category of *de jure* stateless during this time, he contends that it is “a priority of ours” to ensure that such instances rarely occur:

Let me say this—if there is a need for a person to be sworn in, if there’s an emergency or there’s an urgency, we swear them in separately outside of an established or arranged swearing-in. So it’s [the formal acquisition of citizenship] not limited to a swearing-in. Let’s just say a person has to go off to college or they say, “This being *de jure* stateless is a problem” for any reason, for any number of reasons . . . we would move to have a single swearing-in when necessary. We don’t have anything cast in stone or in law what says you have to wait for a grouping.<sup>34</sup>

While further investigation is needed to corroborate this statement, one of the primary problems appears to be precisely that the Department of Immigration lacks “anything cast in stone” when it comes to establishing transparent deadlines, rules, and procedures regarding the citizenship application process. This adds to the politicization of applying for and receiving Bahamian citizenship because an applicant cannot easily point to a rule or a procedure and ask to be treated in a fair manner based upon said rule or procedure. Additionally, it is revelatory that the three officials, all of whom should be on the “same page,” or at least have a more defined idea of the timing between renunciation and Bahamian citizenship acquisition, offer inconsistent explanations on the nature and duration of the citizenship acquisition process.

One of these individuals, who was in the best position to answer questions dealing with the citizenship application and approval process given the nature of his professional duties, readily admits that he does not know what happens when there is “a pregnant woman” who has renounced her original citizenship as part of the citizenship application process. “She’s about to give birth and the child’s nationality is dependent upon the mother. And the woman gives birth. What happens to the child? That’s a good question that you may want to follow-up [on].”<sup>35</sup> If people at the highest levels of the Department of

Immigration and the Ministry of Foreign Affairs are unsure of procedures and timelines in the citizenship application and approval process, it is unsurprising that the Bahamian-born interviewees faced the types of obstacles that they did on their path to becoming Bahamian citizens for “the functionaries of the state themselves find the practices of the state to be illegible” (Das 2004, 234). The system for awarding citizenship in The Bahamas is dysfunctional and statelessness consequently arises.

Beside the cases of *de jure* statelessness that exist during the interim between the renunciation of one’s original citizenship and being sworn in as a Bahamian citizen, the risk of statelessness is heightened in The Bahamas for other reasons as well. The Bahamian Constitution does not accord its female citizens the same rights as their male counterparts when it comes to passing on their Bahamian citizenship.<sup>36</sup> A child born outside the country to a Bahamian father becomes a Bahamian citizen at birth (Article 8), but a child born outside the country to a Bahamian mother does not have this same right if the mother is married to a foreigner.<sup>37</sup> Her child is entitled to apply for Bahamian citizenship at eighteen, alongside those who are born in The Bahamas to noncitizen parents. The only difference is that the child born overseas to a Bahamian mother has until age twenty-one to register as a Bahamian citizen (Article 9).<sup>38</sup> In this case, the child born overseas to a Bahamian mother is susceptible to statelessness if the child is born in a state that does not automatically grant citizenship via *jus soli* and there are restrictions on the ability of the child’s father to pass on his citizenship via *jus sanguinis*.

In a much-anticipated referendum, Bahamian voters were asked in 2016 to: 1. allow Bahamian women married to foreigners to pass on their citizenship to their children when the latter are born outside the country; 2. permit the foreign spouses of Bahamian women to apply for Bahamian citizenship; 3. allow Bahamian men to pass on citizenship to their children born outside of marriage; and 4. to amend the Constitution so that “sex” becomes a prohibited ground of discrimination.<sup>39</sup> Each proposed bill stood or fell on its own, yet all four proposals were resoundingly rejected by the Bahamian electorate.<sup>40</sup> This was the second time in less than twenty years that such an initiative failed, the first referendum on gender equality being held in 2002. Thus formal belonging, or the fulfillment of a human right to a nationality, also has a gendered component in the Bahamian case.

Lack of parental documentation is one of the primary problems among irregular migrants and another reason for potential statelessness in the country. Individuals who are unable to prove who they are and where they

are from via documentation—such as birth certificates, passports, driver’s licenses and so forth—often pass on this insecure status to their children. The Haitian Embassy in The Bahamas cannot provide Haitian citizenship to those who are unable to provide proof of their parent’s Haitian nationality or who cannot produce two witnesses to attest to the citizenship of the child’s parents.

Lack of parental documentation is often particularly pressing for children born to parents from rural parts of Haiti, such as the Northwest, where most Haitian migrants to The Bahamas come from. As one Haitian official states, “Don’t forget you’re dealing with a poor country where governance is a big problem, particularly at the level of the Registrar[’s] office. [Because] the main archive is in Port-au-Prince [and] because of poverty, many people give birth to their children and they do not go to the Registrar[’s] office to register their children. That’s a big problem.”<sup>41</sup> Ambassador Rodrigue supports this assertion, describing how many parents “cannot get a birth certificate [from Haiti]. That’s the big thing. The big, big, big problem” when it comes to obtaining Haitian citizenship for their Bahamian-born children.

This issue is not unique to children born of irregular Haitian migrants in The Bahamas. As I note in the previous chapter, lack of birth registration is one of the reasons that individuals are placed at risk of statelessness globally. While a high-ranking official at the Office of the Registrar in The Bahamas asserts that it is “very rare” for a child born in The Bahamas not to be registered and receive a Bahamian birth certificate, a former Haitian official discusses how many children born in The Bahamas end up being repatriated with their parents:

And now suddenly, when they are 16, 18, and they want to come here to get their citizenship that’s a big problem because there’s no way to prove that [they were born in The Bahamas]! The reason there is no way to prove that [is] you [were] born, [but] before leaving they don’t even think about having an official document here. They cannot have a passport, but at least they could have a travel document. They did not. Then no vaccination, nothing; how you going to prove [birth in The Bahamas]?

The number of undocumented Bahamian-born children of Haitian parentage in this situation is unknown but as the official at the Office of the Registrar made clear, a parent must have a “valid government issued picture

identification” in order to register the Bahamian-born child.<sup>42</sup> Brice-Adderley provides an account that supports the official’s assertion:

We have a case where that was brought to my attention. The father was born in The Bahamas. He’s from Haitian parentage. He is 32-years-old. I think he may have submitted his documents for citizenship, but they haven’t come through as yet, for whatever reason. The mother was an illegal immigrant, but she came here somehow and stayed for two years, met him, had a child. But two months ago she was detained and repatriated. But before, in between being detained and being repatriated, they called me in to see if I could assist her because she had a young baby. The young baby was not documented. . . . So the mother was the one who would have taken the child to be registered, but because she was illegal for whatever reason, she did not have any ID. So she couldn’t do anything for the child. . . . She couldn’t get the notice of birth from the hospital because she didn’t have an ID.

Without such a valid ID, the ability of the child to acquire a Bahamian birth certificate and then apply for Bahamian citizenship at eighteen is placed in jeopardy. Such children are exposed to an obvious risk of statelessness, having no proof of where they “officially” belong.

A former employee at the Ministry of Foreign Affairs under the FNM administration also notes that children who are born in The Bahamas but who “go back to Haiti” with their mothers at “the age of two or three, or whatever” face difficulties in securing Bahamian citizenship for a different reason: “There’s no connection with The Bahamas until one day before their 18<sup>th</sup> birthday, which they just happen to come back to Nassau just to file this piece of paper and then leave again. That puts a different spin on it [the citizenship acquisition process] in that they haven’t been here for that length of time, etc., etc.”<sup>43</sup> What exactly the “spin” is, given that no transparent rules and procedures exist for acquiring Bahamian citizenship, is unclear. However, the MFA’s previous response that birth in The Bahamas does not facilitate an individual’s ability to acquire Bahamian citizenship leads one to surmise that residency may play a large role in whether a person born of noncitizens in The Bahamas is able to acquire citizenship in these circumstances.

It is also unclear how many individuals fall into the situation of being repatriated with their mother to Haiti and then returning to The Bahamas

at eighteen to apply for Bahamian citizenship. Dr. Charité, who offers his medical services in various Haitian communities in Abaco, believes that “We have quite a bit [who] are put in that situation. A lot of them go and come back when they’re 18, 19” and those who come back are “a large enough number to affect a community.”

According to Ambassador Rodrigue, however, even undocumented persons of alleged Haitian nationality are able to obtain a letter from the Haitian Embassy that “serves as an ID because we put a picture on it and that person, we request he or she bring two witnesses who can identify her and say, ‘Yes, this is so and so.’” This letter is then accepted at the hospital as “valid government issued picture identification,” allowing that individual’s child to obtain his or her Bahamian birth registration. But if the undocumented parent does not come to the embassy for such a letter, and does not possess his or her own Haitian birth certificate, then that becomes, in the words of Ambassador Rodrigue, a “big, big, big problem,” especially if “The parent dies. The parent dies and that kid doesn’t know anything. . . . We have cases like that.”

However, this ID letter, which serves as a form of identification for a pregnant woman who lacks a Bahamian government issued ID cannot, according to the ambassador, be used to acquire Haitian nationality: “But that document or that letter we give is used only for that [as ID at the hospital]. They cannot use it [to] afterwards come and say, ‘I have that from you. I need to have a passport.’ Because no matter what, for the passport we need a birth certificate.”

As part of the Bahamian or Haitian citizenship application process for their Bahamian-born children, Haitian nationals must obtain a certified copy of their birth certificate (“*extrait*”). The Haitian Embassy in The Bahamas is unable to provide this service to Haitians despite having tried to convince the Haitian government to allow them to do so.<sup>44</sup> Haitians must therefore either return to Haiti—a voyage that few undertake—or solicit the services of a person or agency to acquire the certified copy of their birth certificate for them. Says Ambassador Rodrigue,

Some service they call it, where people can go and that person . . . tr[ies] to get those document[s] for them. At that point you give your information: born here, born this day, in what city, etc. And that person tr[ies] to get that information [the birth certificate] for them. But sometimes the person just hires someone to give them [a] false



document. And when that person bring[s] that document here at the Embassy, we verify it's not authentic. We have to tell them, "I'm sorry. We cannot legalize the document."

The ambassador adds that sometimes a person goes through the process multiple times, paying individuals to obtain a certified copy of their Haitian birth certificate only to find out that the document is not genuine and cannot be accepted by the embassy in Nassau. "When they come the third time and you say, 'No, it's not good,' the problem is you. The problem is the embassy because 'I paid all that money' and we refuse to take it. 'You are blocking me from doing this or doing that.'" This is why, in the words of another former Haitian official, "if you go outside of the embassy, talking to the people in the yard, the embassy is not popular."<sup>45</sup> This same individual notes that fraudulent documents are not the only problem the Haitian Embassy in Nassau faces when trying to authenticate the Haitian nationality of an individual; a black market for Bahamian birth certificates also exists.

That is, the birth certificate of a deceased child born in The Bahamas is sold to another person who attempts to use the deceased's birth certificate for his or her purposes. The former Haitian official states that "I think the Bahamian government has a big problem to solve" in this area and that "You have a lot of cases like this. . . . Sometimes they even steal document[s]." The Haitian Embassy cannot provide a Haitian birth certificate or passport to individuals under such circumstances. "If you come to the consular section and ask me for a passport, if you cannot prove [to] me beyond any doubt that you [are] Haitian, I'm not going to give you the passport. I'm not going to issue the passport. You have to prove me that. Okay? That's why you may find many Haitian[s] who left Haiti to come here . . . they're coming to the embassy for 2 or 3 years [and] they [still] cannot get a [Haitian] passport."<sup>46</sup>

The problem of false documents also affects these persons' ability to obtain Bahamian citizenship. Without the *extrait*, as Ambassador Rodrigue points out, "they cannot bring all what they need to bring to the immigration service. . . . So it's a challenge, it's a real challenge for the people." The former Haitian official also points out how "very often people try to blame the Bahamian government" for the inability of Bahamian-born children of Haitian descent to obtain Bahamian citizenship, "but the people also complicate the situation with fraudulent document[s], and we have to pay attention to that." Statelessness is thus a real risk to those children born to Haitian parents who are unable to secure Haitian citizenship from the

embassy due to their lack of documentation or their use of fraudulent documents.

Another issue is that some Bahamian-born individuals are ignorant of their ability to go to the Haitian Embassy and obtain a Haitian passport. A few interviewees, for example, note that their parents did not know they could have taken them to the embassy to secure Haitian nationality documents. Whether this is due to ignorance or a deliberate act on the part of the parent(s), the children are at risk of statelessness because they lack Haitian nationality documents and are not yet able to apply for Bahamian citizenship. Ambassador Rodrigue explains how even though the Haitian Embassy provides Haitian birth certificates to children born in The Bahamas,

when they get the birth certificate from the Bahamian authority, they are satisfied with that. And, as a matter of fact, they keep it preciously because that is the only thing that can prove they were born here [in The Bahamas] and that is going to give them the possibility, at 18 years old, to apply for [Bahamian] citizenship.

Although possessing Haitian identity documents does not affect a child's ability to apply for Bahamian citizenship at eighteen, many parents believe it does. Ambassador Rodrigue states, "They think if they come here at the embassy and get a Haitian birth certificate," it is "never going to happen that they get the Bahamian citizenship." They believe that "having a Haitian birth certificate . . . compromise[s] their chance or the possibility of becoming Bahamian." So, says the ambassador, "no one" comes to the embassy to obtain Haitian identity documents for their children. This again poses a real risk of statelessness for Bahamian-born children.

A former Haitian official concurs, adding that embassy personnel go to churches to explain to the Haitian congregations that having a Haitian passport or birth certificate does not hinder an applicant's ability to acquire Bahamian citizenship later on. "I invite them to come to the embassy to get [a Haitian] passport for their children. But they're still waiting for [the] Bahamian passport." An MFA official agrees, stating that

Many persons born in The Bahamas to non-Bahamian parents, especially persons of Haitian descent *do not see themselves as Haitian nationals*<sup>47</sup> and therefore do not wish to claim Haitian citizenship and would rather have a Bahamian certificate of identity instead of a

Haitian passport. The Haitian Embassy willingly issues Haitian passports to persons born in The Bahamas to Haitian parents.<sup>48</sup>

These individuals—who have the ability to obtain Haitian nationality documents and choose not to—are not stateless according to Ambassador Rodrigue: “if you don’t want to take it [a Haitian passport], I can say that’s your problem. That’s you. But you have the potential nationality . . . if for any reason you say, ‘No, this [passport] I don’t want it.’ No one put you in the position to have no nationality. You are the one.” The MFA official adds that “It can be contended that there are cases of *de facto* statelessness” in The Bahamas, but that such “cases are due to choice of the individual and not by any discriminatory practice of the Bahamas government.”<sup>49</sup>

It is important to emphasize, however, that the responses of the ambassador and the MFA official do not hold for Bahamian-born children because they are unable to undertake citizenship and passport application procedures themselves and cannot, therefore, make active choices one way or the other. Moreover, and in the words of Open Society Foundation program officer Sebastian Kohn, “Having a right to a nationality is not the same as actually having a nationality.”<sup>50</sup> They are thus once again vulnerable to statelessness, even if it is because of the inaction or choice of their parents.

Despite the predicaments generated by Bahamian nationality law—both for children born of noncitizens in the country and for children born abroad to Bahamian mothers married to foreign men—the government of The Bahamas has not ratified either of the two statelessness conventions and denies that statelessness is an issue in the country. If it does exist, in the words of a former high-ranking MFA official, it “is not necessarily stateless here, but it’s a statelessness of their country”;<sup>51</sup> meaning that if persons are found stateless in The Bahamas, it is a result of problems in the laws and procedures of other countries, not of The Bahamas. An anonymous official from the MFA asserts that “It is believed that there are no cases of *de jure* statelessness in The Bahamas. . . . Persons born in The Bahamas to non-Bahamian parents are considered under Bahamian law to be the nationals of the country of their parents.”<sup>52</sup> In the case of children born of Haitian parents, therefore, the assumption is that the children are covered under Article 11 of the Haitian Constitution,<sup>53</sup> which states that any person born of a Haitian mother or father who has not renounced his or her Haitian citizenship is also a Haitian at birth.

This chapter demonstrates, however, that many such persons are unable to claim and acquire Haitian citizenship in practice. Beside the cases provided above, Marselha Gonçalves Margerin and Melanie Teff (2008) point out that children born to undocumented parents or parents seeking asylum do not acquire Haitian citizenship at birth and Wooding adds that “The reality is that under the Haitian Constitution and Haiti’s 1984 law on nationality, there are several groups of people of Haitian origin born outside Haiti who do not have automatic access to Haitian nationality” (2009, 24). UNHCR goes further to observe how

complying with the documentary requirements to demonstrate descent from a Haitian national is very difficult and costly for those outside of Haiti. An additional problem is the lack (to UNHCR’s knowledge) of clear, concise written consular regulations on interpretation of the law. For example, in a 2008 survey conducted by UNHCR of four Haitian consulates in locations with the highest numbers of Haitians and their descendants living abroad, consular officials disagreed on how far, i.e. to which generation, lineage rights could extend to grant nationality. (UNHCR 2011a)

Alarming, it appears that Haiti may not consider such persons “Haitians” either. When former Haitian president Michel Martelly visited The Bahamas in 2012, for instance, he referred to the “stateless” people of Haitian descent living in The Bahamas, asserting that it “could be considered as a crime” that they are denied citizenship in The Bahamas and repatriated to Haiti. This resulted in a public outcry and then Prime Minister Ingraham declared that “Such persons are not stateless; they have the nationality of their parents” (K. Rolle 2012b).<sup>54</sup>

Where then do these Bahamian-born persons of Haitian descent belong? Not only has The Bahamas not ratified the two statelessness conventions, which could potentially improve their situation, but it also has no statelessness status determination procedures in place. Without any SSD procedures or provisions to address statelessness within its nationality or immigration laws, The Bahamas is unable to accurately and transparently verify whether the “potential [Haitian] nationality” of which Ambassador Rodrigue speaks is actually enjoyed *in practice* by the Bahamian-born individuals in question, exacerbating the potential for statelessness in the country.

Although no SSD procedures exist, the aforementioned MFA official affirms that “The Department [of Immigration] seeks confirmation of citizenship from the assumed country of citizenship in writing or by asking the individual to apply for a national passport.”<sup>55</sup> Based on the above testimony from the former Haitian official and the current ambassador, however, the Haitian Embassy cannot provide a Haitian passport or a written letter attesting to the nationality of those who either lack the requisite identity documents from Haiti or who cannot produce two Haitian witnesses to verify their Haitian nationality. It is thus not apparent that the Bahamian government’s alleged reliance on written letters is sufficient for establishing the nationality of all persons born in The Bahamas of noncitizen parents.

Moreover, asking people “to apply for a national passport” as “confirmation” of their nationality is not proof that they are nationals. An application for a passport is not the same as actually possessing a passport as proof of citizenship. What happens to those individuals whose parents lack identifying nationality documents is thus unclear. Once again, it seems that the current operating procedures of the Bahamian government expose Bahamian-born persons of noncitizen parents to the risk of statelessness, the government’s denial notwithstanding.

As Figure 5 illustrates, Bahamian-born children of Haitian descent are at a heightened risk of statelessness in the country through a combination of factors. Protection gaps in Bahamian law,<sup>56</sup> bureaucratic inefficiencies, obscure citizenship decision-making rules and practices, and the politicized nature of citizenship bestowal place them at risk of statelessness on the Bahamian side; while parental inability or refusal to obtain Haitian identity documents for themselves or their children place them at risk on the Haitian side. As former attorney-general Sears points out, “When someone has no evidence of another nationality, has never applied for a Haitian passport, has never had a Haitian passport . . . because they’ve never had any documentation to evidence a Haitian nationality . . . this is where the issue of statelessness comes in.” Another former Bahamian government official similarly notes that

the social reality is that we have a very large number of persons in this society of Haitian extraction who have a very dubious status in The Bahamas; neither fish nor fowl. They don’t qualify for Bahamian citizenship constitutionally and conversely there are issues as to whether they have retained Haitian citizenship. . . . In any case, there is a very

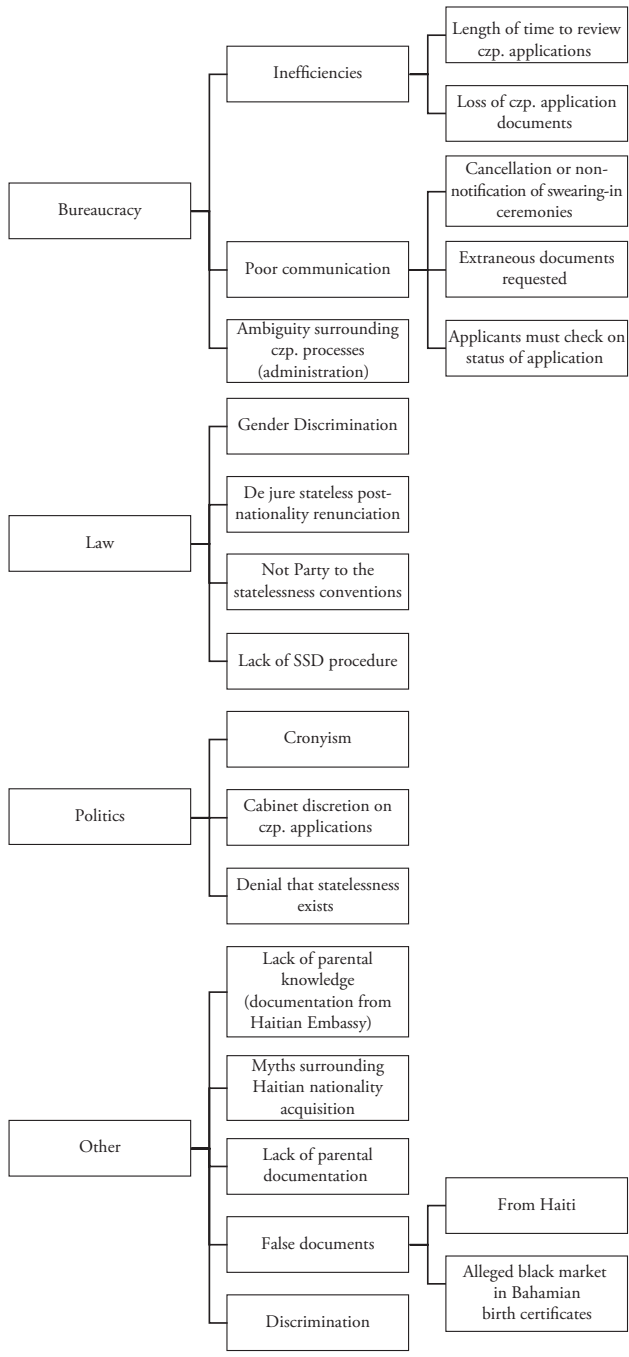


Figure 5. Risk factors for statelessness: Bahamas.

great question as to whether we do not unwittingly have within our borders a very large number of people who may possibly be stateless or who may become stateless at a certain point in time.<sup>57</sup>

When these Bahamian-born persons are not relegated into liminality, they are—as explained above—assumed to be Haitian under Article 11 of the Haitian Constitution. In 2014, Bahamian authorities sought to make this assumption a reality by forcing Bahamian-born persons of Haitian descent to acquire Haitian nationality documents. When I interviewed participants of Haitian descent for my 2012 fieldwork, the Bahamian government had purportedly begun a practice of trying to make these individuals obtain “Haitian” nationality documents at a critical time in the Bahamian citizenship application process. According to Dumercy, the Bahamian government at the time was failing to renew travel documents at eighteen for those who had not gone to the Haitian Embassy to acquire Haitian identity documents. A travel document, which is a Bahamian-government issued Certificate of Identity, used to be issued to children born of noncitizen parents in The Bahamas. It was a crucial document that served as an ID and allowed children born of noncitizens on Bahamian soil to travel abroad and reenter The Bahamas as well. According to the MFA official,

The certificate of identity is issued at any age up to the 18th birthday. The expiry date therefore varies, and does not automatically expire on the 18th birthday. The last certificate of identity will be issued on the eighteenth birthday and is valid for five (5) years enabling the holder to remain in The Bahamas, and re-enter The Bahamas during the processing of the application for registration as a citizen.<sup>58</sup>

As Dumercy explains, however, it used to be that you could go to the Department of Immigration to get a letter stating that the travel document could be renewed at age eighteen. But “Now they stopped doing that.” Instead, “what they’re making the kids do” is “go and apply to the Haitian Embassy in Nassau . . . in order to get a valid ID.” On November 1, 2014, Dumercy’s account received corroboration when the Department of Immigration put into effect a new policy, which “*forces them* [noncitizens born on Bahamian soil] to apply for a passport from their parents’ country of origin” (Robles 2015; italics added). As part of this new policy, Certificates of Identity are no longer issued to noncitizens born on the territory (Mitchell 2014). Dumercy

is certainly right that the Bahamian government is “sending a mixed, confused message” if they are refusing to renew Bahamian-issued travel documents and forcing these Bahamian-born persons to acquire Haitian identity documents at eighteen. Age eighteen is, after all, when they can apply for Bahamian citizenship, as per Bahamian law.

### Conclusion

This chapter illustrates that determining who belongs where is no simple endeavor. It is not merely a matter of identifying whether an individual falls under a given state’s law as one of its nationals. In order to establish whether a person’s human right to a nationality is fulfilled in practice, we must examine the political practices and bureaucratic procedures of states to see how laws are implemented in reality. As this chapter shows, a large gap exists between what Haitian law says regarding the acquisition of Haitian nationality and what actually occurs in practice for those born of Haitian migrants in The Bahamas. The offspring of such migrants are exposed to statelessness because the country of their birth, The Bahamas, denies them citizenship for at least the first eighteen years of their life and because they do not possess nationality documents from the country of their parents’ alleged nationality (Haiti).

While Bahamian government representatives claim that statelessness does not exist, I demonstrate in this chapter that *de jure* statelessness exists, especially during the Bahamian citizenship registration or naturalization process. Although the Ministry of Foreign Affairs official asserts that discrimination plays no role in engendering statelessness in The Bahamas, without publicly available data on the number of persons who are denied or granted Bahamian citizenship by national origin, we have no way of corroborating this statement. What is known, and what I illustrate in this chapter, is that the obscurity, arbitrariness, and politicization surrounding the grant of Bahamian citizenship provide ample cover for the government to defend a position of neutrality, even if the experiences of the Bahamian-born noncitizens demonstrate otherwise.

That the majority of study participants, both citizen and noncitizen, remark on the prevalence of Bahamian-born persons of Haitian descent among those at risk of statelessness also speaks to a problem of discrimination. As James Goldston points out, “Indirect discrimination—also known as de



facto discrimination or disparate/adverse impact or effect—occurs when a practice, rule, requirement, or condition is neutral on its face but impacts particular groups disproportionately, absent objective and reasonable justification” (2006, 328). Whether it is because they are the largest foreign-descended population (and consequently by their sheer numbers will have more affected persons) or because of discrimination, Bahamian-born persons of Haitian descent do appear to be disproportionately affected by The Bahamas’ exclusionary citizenship laws. They are either thrust into the liminal space of statelessness or assumed to take on the nationality of a state with which they have no effective ties—a state whose former leader contends that they are not Haitian nationals.<sup>59</sup>

Unlike the postnational world of blurred boundaries then, these Bahamian-born noncitizens come up against the very real boundaries of formal belonging to the Bahamian state. Rejected by the country of their birth for at least the first eighteen years of their life and assumed—or made—to hold a nationality that they feel does not belong to them,<sup>60</sup> these individuals are forcibly displaced into the realm of the “betwixt and between.” They know all too well that “belonging to the community into which one is born is no longer a matter of course” (Arendt [1948] 2004, 376). This situation is not unique to The Bahamas, however. Only a few hundred miles to the south, in the Dominican Republic, the precariousness of belonging is exposed in a far more overtly discriminatory manner.