Definitions

Citizenship/Nationality: “Citizenship” is a term commonly used in the social sciences to indicate different types of belonging to a political community and the rights that such belonging brings with it. Citizenship in law is defined somewhat differently, where the legal bond between the state and the individual is at the core of its meaning. This bond provides the basis for other rights, including the right to diplomatic protection by the state concerned. In the 1955 Nottebohm case, the International Court of Justice said about citizenship:

“According to the practice of States, to arbitral and judicial decisions and to the opinion of writers, nationality is a legal bond having as its basis a social fact of attachment, a genuine connection of existence, interest and sentiments, together with the existence of reciprocal rights and duties.”

In this report citizenship and nationality are used interchangeably as in contemporary usage to refer to the legal relationship between an individual and a state, in which the state recognises and guarantees the individual’s rights. Precisely which rights the state guarantees to its citizens varies by state, but the most common rights of citizens are the right to permanent residence within the state, the right to freedom of movement within the state, the right to vote and to be elected or appointed to public office, the right of access to public services, the right to diplomatic protection when outside the country, and other rights that are guaranteed to noncitizens as well as citizens.

Neither “citizenship” nor “nationality” is used to indicate the ethnic origin of the individual concerned: the terms refer only to the legal bond between a person and a state.

Citizenship from birth/of origin: Citizenship from birth (nationalité d’origine in French, and similarly in the other civil-law countries) is used in this report to mean citizenship that an individual has by right from birth rather than acquired

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3 In some contexts, however, an individual can have the nationality of a state—be recognised by the state as belonging and having some claim upon it—without the full citizenship rights that are granted to others. This situation was more widespread in the past than it is today. For example, in African countries under colonial rule or South Africa under apartheid, only those of European descent had both nationality and full citizenship rights. Similarly, it used to be common for women to have nationality of a state but not full citizenship, because they did not have the right to vote. Today, human rights law principles of nondiscrimination require that all those who are nationals of a state enjoy the same rights.
as an adult or following any administrative process. In some circumstances in some countries, the law provides that an individual can obtain retroactive recognition of citizenship from birth/of origin after birth. Citizenship granted solely on the basis of birth in a territory (by *jus soli*) is a separate concept, and explicitly described as such in this report. (In many Commonwealth countries, the term used in law for citizenship from birth in this sense is often citizenship “by birth”; however, given the common confusion this phrasing creates with the concept of citizenship *jus soli*, we have restricted use of the phrase “citizenship by birth” to references to the wording of particular national laws rather than to discussion of the principles that should be respected.)

**Citizenship by descent:** When an individual obtains citizenship on the basis of his or her father’s and/or mother’s citizenship (regardless of place of birth), this is termed herein “citizenship by descent.”

**Citizenship by acquisition:** Citizenship that has been acquired by an administrative process after birth such as by naturalisation, registration, option, or marriage is termed generically “citizenship by acquisition.”

**Statelessness:** In this report, the term “statelessness” is defined according to international law: “stateless person” means a person who is not considered as a national by any state under the operation of its law. Since only states can have nationals, a person whose status is recognised only by a non-state entity is by definition stateless. The phrase “considered as a national ... under the operation of its law” includes not only the letter of the law, but also the way in which the law is applied by the state. A theoretical claim to nationality is inadequate to establish that a person is not stateless if in practice she or he is not recognised as a citizen by the state concerned.

**Habitual residence:** There is no agreed-upon definition of what is meant by “habitual residence” in different jurisdictions, although the European Court of Justice, for example, has established some jurisprudence on the subject. In general, the country of “habitual residence” is considered to mean the state where the centre of a person’s interests lie and where he or she has the strongest personal connections. Such connections need not be numerous but must have a degree of permanency greater than any connections with other states.

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4 Convention relating to the Status of Stateless Persons, 1954, Article 1(1).