Definitions

Citizenship/nationality: In this report citizenship and nationality are used interchangeably as in contemporary international law usage to refer to the legal relationship between an individual and a state, in which the state recognizes and guarantees the individual’s rights.

In the 1955 Nottebohm case, the International Court of Justice said that “[a]ccording 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”.2 Precisely which rights the state guarantees to its nationals/citizens varies by state, but the most common restricted rights 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, and the right to diplomatic protection when outside the country. In addition there are other rights that are guaranteed to non-nationals as well as nationals by the international human rights regime.

In domestic law, “citizenship” is used more often in the Commonwealth states for this legal bond of rights and duties, while the civil law countries use “nationality” (nationalité/nacionalidade). However, international law texts more commonly (though not consistently) use the term “nationality”, even in English language versions: this report favours the use of “nationality” in relation to international obligations and in civil law contexts, using “citizenship” and “citizen” in the common law states.3 “Citizenship” is not used here with its wider meaning in political science or sociology encompassing the idea of full participation in a community, nor does “nationality” have any ethnic or racial connotation.

Nationality from birth/of origin: Nationality or citizenship from birth is used in this report to mean nationality that an individual is automatically attributed by law from the moment of birth rather than acquired as an adult or following any administrative process. Nationality granted solely on the basis of birth in a territory (by jus soli) is a separate concept, and explicitly described as such.

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3 This is a change from the second edition, where “citizenship” was used more often; however, “citizenship” and especially “citizen” are still used in some contexts where they sound more natural in English. In French, the natural term for a national is often “ressortissant”; however, ressortissant can have a slightly wider meaning than those with nationality, to encompass others falling under the state’s jurisdiction, depending on context.
in this report. In Commonwealth countries, the term used in law for this concept is often “citizenship by birth”; however, given the common confusion this phrasing creates with the concept of citizenship attributed to any person born in the territory—on which it was originally, but is no longer, based—use of the phrase “citizenship by birth” is restricted here to references to the wording of particular national laws rather than to discussion of the principles that should be respected. In the civil law countries, the phrase “nationality of origin” (nationalité d’origine/nacionalidade de origem) encompasses the same idea of nationality attributed automatically from birth, and will sometimes be used in this text as a translation. In some circumstances in some countries, the law provides that an individual can obtain retroactive recognition of citizenship from birth after birth.

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

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

**Appropriate connection:** This is a term used by the International Law Commission in its *Draft Articles on Nationality of Natural Persons in Relation to the Succession of States*. An “appropriate connection” can mean habitual residence, a legal connection with one of the constituent units of a predecessor state, or birth in the territory of a state concerned. But, “in the absence of the above-mentioned type of link between a person concerned and a State concerned further criteria, such as being a descendant of a person who is a national of a State concerned or having once resided in the territory which is a part of a State concerned, should be taken into consideration”.

**Habitual residence:** There is no agreed-upon definition in international law of what is meant by “habitual residence”. Guidelines adopted by the UNHCR state that “[t]he term ‘habitual residence’ is to be understood as stable, factual residence ... [and] does not imply a legal or formal residence requirement”. Jurisprudence of the European Court of Justice has established that, 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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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. As noted by the UNHCR, “establishing whether an individual is not considered as a national under the operation of its law ... is a mixed question of fact and law”. Thus, “[w]here the competent authorities treat an individual as a non-national even though he or she would appear to meet the criteria for automatic acquisition of nationality under the operation of a country’s laws, it is their position rather than the letter of the law that is determinative in concluding that a State does not consider such an individual as a national”.

6 Convention relating to the Status of Stateless Persons, 1954, article 1(1).
7 UNHCR, Guidelines on Statelessness No. 1: The definition of “Stateless Person” in Article 1(1) of the 1954 Convention relating to the Status of Stateless Persons, HCR/GS/12/01, 20 February 2012, paragraphs 16 & 30.