**11 Three Approaches to the Relationship Between Law and Culture**

**11.1 Introduction**

“*It is a well-known axiom, that the law of a nation must be studied in the mirror of its national system of life*”

Justice Agranat, *Voice of the People* Judgment

In recent decades, a trend has emerged in scholarship that seeks to reach a better understanding of the law by applying the concept of culture. For example, Professor Paul Kahn, an American jurist, suggested thinking of the concept of the “rule of law,” and of the law as cultural phenomena that should be studied “from the outside,” that is, transcendently, to the legal field. Such a perspective, according to Kahan, aids the jurist to act as an anthropologist, not assuming that the rule of law is a “natural law,” but, rather, a cultural phenomenon that organizes society in historical processes and will continue to do so indefinitely.[[1]](#footnote-1)

Other jurists have proposed classifying the different approaches dealing with the field of law and culture into three main ones: first, the national culture of a people creates state law; second, state law establishes culture; and third, the law as created and enforced in the courts is a distinct cultural system.[[2]](#footnote-2) In the Israeli context, Mautner argues that the development of Israeli law cannot be understood without understanding the social, cultural, and political conditions in which the law was created.[[3]](#footnote-3) Thus, Mautner sees Israeli law as an arena for the main cultural struggles taking place among the Jewish people since the beginning of modernity.

The following is a brief overview of these three approaches.

**11.2 The First Approach: The Historical Approach – The National Culture of a People as the Creator of State Law**

The first approach concerned with the field of law and culture is that which views the national culture of a people as the creator of state law. According to this approach, law begins in culture and ends in state law; its central argument is that law is formed within the fabric of people’s daily lives, and is thus located in its culture.

This conception of the connection between culture and law underlies the methodology of the historical school of law, and is identified with the writings of its founder in German law, Friedrich Karl von Savigny. According to Savigny, the law is not created by proactive, conscious, intelligent planning, nor by parliamentary legislation; rather it is a product of the life of the people, and it evolves in an unplanned and unconscious manner, throughout history and daily life. As a result, not only does each nation have its own law that is most suitable to it, but also the law of one people cannot be used for the law of another.

**11.3 The Second Approach: The Establishing Approach – State Law is Shaped by the People’s National Culture**

Since the 1980s, extensive scholarship, starting with the seminal work of Clifford Geertz, has developed in the United States, perceiving law as playing a central role in establishing meaning in human lives. Geertz rejected conceptions that view law as a mechanism for resolving disputes. Geertz also rejected Durkheim’s functional notion that law is separate from society, and, as such, acts on society “from the outside” to address its needs. Instead, Geertz proposed seeing law as “structures of meaning,” creating a unique way of imagining reality, that is, seeing the law as a participant in creating a world of cultural meaning.[[4]](#footnote-4) Bourdieu echoed this view, claiming that through the categories of consciousness that the law imparts to human beings, it succeeds in creating social relationships and identities, which have a permanence and stability no less than the permanence of physical objects. Bourdieu even added that it would not be an exaggeration to say that law creates the social world, if only we remember that the social world is what creates law in the first place.[[5]](#footnote-5) Bourdieu’s approach illustrates the affiliation between the historical approach and the foundational approaches to law, with both perceiving the law as inextricably enmeshed in the daily lives of human beings.

Finally, the Critical Legal Studies approach that emerged and flourished in the United States in the 1970s and 1980s took the concept of socio-cultural and legal affinity a few steps further, rejecting the assumption that society and law are separate and distinct entities, with a causal reciprocal relationship. The criticism of the proponents of Critical Legal Studies was comprehensive, disparaging the accepted legal theory of their time, the manner in which legal academic work was created, and the hegemonic cultural manifestations of the social circles within which it operated. According to them, society neither has precedence over law, nor is it pre-legal. They vehemently opposed the thesis that law should be understood within its social context, but that society can be understood without knowing the law. According to them, it is not possible to distinguish law from society, because it is not possible to draw clear disciplinary or methodological boundaries between law, culture, and society. Therefore, these are not causal relations, and there is no mutual influence in the simplistic sense.[[6]](#footnote-6) Rather, these critics viewed these relationships as foundational ones – society and law simultaneously establish and define one another. Thus, for instance, legal concepts are the basis for most categories that are ostensibly “social,” and vice versa; the law cannot be described or understood without understanding basic social categories.

**11.4 The Third Approach: The Law Created and Enforced by the Courts as a Distinct Cultural System**

The third approach in legal theory addressing the connection between law and the idea of culture views the courts as a separate cultural system, and therefore it focuses on the law created and applied by the judiciary. Under this approach, the contents of the law are organized into legal categories, and the law has unique conventions of thought and action, such as unconscious rules of relevance, bowing to judges, etc., and jurists are the people who internalize the contents of law over the course of their professional careers as well as the accepted ways of thought and behavior within the legal culture.

For the American jurist Carl Llewellyn, the legal system is a space composed of a pool of rules and conventions, which are internalized by jurists. The professional experience of jurists allows them to internalize this reservoir. Thus, they can operate at a high level of objectivity and in accordance with widely accepted standards within the professional culture of the law. Today we define this “pool” as the Habitus (in Bourdieu’s terms). In addition, accepted practices and conduct within the legal field which have not been codified activate these rules and conventions, but these, according to Bourdieu, are more covert. Consequently, jurists are less aware both of their existence and their effect on the jurists.

Following the publication of Menachem Mautner’s book *Law and Culture of Israel* in 2011, a number of critical articles were published, some them warning of the dangers inherent in approaches linking law and culture. The main focus of this criticism was the claim that law is not external to judges’ consciousness, but is the fruit of the professional legal culture; that is, the culture that is created and exists in the courts and within legal communities determines the judges’ consciousness. For example, Harel and Lorberbaum’s critique of Mautner’s book is that his approach undermines the understanding that “A central and important way to understand law is to view it as a normative system whose main function is to neutralize the judges separate culture (or the culture of the community in which they live) and prevent this culture from leaking into the judicial decision.”[[7]](#footnote-7) In a subsequent article, Mautner responded that he was making a descriptive rather than a normative claim in his book. From the normative point of view, Mautner argues that “the difference between law and the non-legal culture, is the purpose of its existence,”[[8]](#footnote-8) and that there will always be a degree of objectivity. From the theoretical perspective, when jurists deal with legal materials, they rely, whether they want to or not, on their life experience, attitudes, knowledge, logic, and more. Mautner claims that the principle disagreement is that while he claims that law is a cultural system, in which jurists operate pursuant to the thought categories they have formed throughout their lives, Harel and Lorberbaum contend that the content of law is a matter external to the mind of the jurist, who is assisted by it when necessary.

Clearly, then, the law has the ability to establish categories of consciousness, behavioral practices, and identities, and at the same time, the law can legitimize social arrangements.[[9]](#footnote-9) Or exclude them. I will expand on this point in the next section in which I will demonstrate how the strategies of action (time, space, and the “absent character”) raised in the previous chapter are reflected in the Supreme Court’s judgment regarding the fifteen petitions filed against the Nation-State Law. But first, I present the background to the petitions, and briefly map out the parties’ main arguments.

**1. Strategies of Action in the Supreme Court**

**12.1 The Supreme Court’s Judgment Regarding the Nation-State Law**

**12.1.1 Background**

The Israeli Supreme Court was faced with 15 petitions related to the Nation-State Law. The Court consolidated the petitions, and heard them on December 22, 2020.[[10]](#footnote-10) The petitions were filed by various human rights organizations, as well as private individuals from within Israeli society. The main claim raised by all the petitioners, according to Clause 7 of the Judgment, was:

This is one of those exceptional and rare instances that justifies judicial review of the content of a Basic Law. According to the petitioners’ approach, the Basic Law – Israel as the Nation State of the Jewish People, refutes the state’s democratic character, because it violates the principle of equality, as well as the balance established in the Declaration of Independence between the values ​​of the State of Israel as a Jewish state, and its values ​​as a democracy. It was further argued that the Basic Law: Israel – The Nation State of the Jewish People, severely violates the constitutional right to equality derived from the right to dignity in the Basic Law – Human Dignity and Liberty, which all governmental authorities are bound by. All these, according to the petitioners, justify substantive judicial review of the Basic Law, adopting the doctrine of an unconstitutional constitutional amendment.

According to the petitioners, the Basic Law – Israel as the Nation State of the Jewish People, should be held unconstitutional, as it gave preference to the State of Israel’s Jewish identity over its democratic character. In addition, it was not merely declaratory, but was even applied by judges in trial courts.

Therefore, of the 15 petitions, 13 sought to annul the Nation-State Law, six sought to amend it by adding to it the principle of equality and five sought to annul some of the law’s provisions, in particular the following Sections: Section 1 which enshrines the basic principles of the State of Israel, and in particular Section 1(c) dealing with the principle of self-determination; Section 4, which deals with language and regulates the respective status of Hebrew and Arabic within the nation; and Section 7, which deals with settlements, enshrining the value of Jewish settlement, and stipulating that the state will act to promote it. According to the petitioners, these sections severely violated the principle of equality and the rights of those who do not belong to the Jewish people.

The positiontaken by theKnesset, as one of the respondents, was that the petitions should be dismissed *in limine,* due to a lack of jurisdiction to exercise constitutional judicial review of Basic Laws in general, and of the Basic Law – Israel as the Nation State of the Jewish People, in particular. The Knesset argument was that, on the merits, the Nation-State Law did not change the character of Israel as a Jewish and democratic state. The Knesset also claimed that if the Court acceded to the petitioners’ application, and “assumes the Knesset’s role” under its guise as an establishing authority, and exercises judicial review of Basic Laws, the principles of separation of powers, as well as that of the rule of law, would be severely harmed.[[11]](#footnote-11)

The position taken by the government, another respondent in the case, was that the petitions should be dismissed because “none of the petitioners was able to establish grounds for granting the ‘far-reaching and unprecedented’ remedy requested in them, *i.e.,* ‘annulling an entire chapter of the emerging constitution of the State of Israel.’”[[12]](#footnote-12) The government respondents also claimed that “no precedent has yet been established on the question of whether judicial review of the constitutionality of a basic law is possible,” and according to them there was no scope to decide that question in the present case, because the Nation-State Law is, in accordance with its form, content, essence, and enactment process, another chapter in the project to formulate the State of Israel’s constitution, and it does not come close to the watershed beyond which a ‘shock to the very foundations of the constitutional structure’” has emerged. According to the respondents, the Nation-State Law enshrines Israel’s identity as a Jewish state, and carries a “constitutionally declaratory message,” without undermining its democratic character. In addition, they emphasized that “statutory construction that avoids constitutionality issues – meaning that there is no conflict between the Basic Laws themselves, or between them and the system’s basic principles – is preferable to the annulment of a Basic Law, in view of the caution mandated by the principle of separation of powers.”[[13]](#footnote-13)

As to the Court’s decision, I note that the Court saw no reason to order the repeal of the National-State Law, or to intervene with respect to any of its provisions. As the Court explained, this was because: “the Basic Law can be interpreted in a manner that avoids constitutional issues, as consistent with other Basic Laws, as well as with the principles and values ​​that have long been enshrined in them.”[[14]](#footnote-14) In the hearing, the Court first examined the question of whether the Knesset is subject to any substantive restrictions in its capacity as the establishing authority. Second, the Court asked whether, even if such restrictions did exist, did it have jurisdiction to exercise judicial review in order to ascertain whether the establishing authority has exceeded such restrictions? After the Court examined those questions, it addressed the petitioners’ claims against the Law as a whole, and against specific sections in the Law. Therefore, I have chosen to delve deeper and analyze the Court’s reasoning with respect to the petitioners’ claims against the Law as a whole, and, in particular, against Sections 1, 4, and 7.

**12.1.2 Time, Space and the “Absent Character” in the Supreme Court’s Judgment Concerning the National-State Law**

As discussed earlier, the law has the ability to establish categories of consciousness, behavioral practices, and identities, and at the same time, legitimize or exclude social arrangements. Therefore, in examining the way in which the Court dealt with the fifteen petitions filed against the Nation-State Law, we must remember that the cultural system that constitutes it is first and foremost – Jewish. Admittedly, the court system defines itself as a system of law, based on liberal principles, and therefore it recognizes minority rights and the principle of equality is essential to it. This is also reflected in the Supreme Court’s judgment on the National-State Law, including “Components of the Jewish State, as stated, equal rights for all citizens of the country, Jews and non-Jews. Equal rights for minorities were explicitly noted in the Declaration of Independence: developing the country for all its inhabitants, freedom of religion, language, and culture, and more.”[[15]](#footnote-15) In addition, the judgment recognized the affinity between a law and the contexts within which it exists: “Constitutional language should be interpreted from a ‘broad perspective,’ since the Constitution is not derived solely from the constitutional text itself.”[[16]](#footnote-16) Meaning, we can see here an explicit expression of the justice system’s awareness of its place and role in the broader cultural system, positioning the value ​​of equality as fundamental.

However, when Chief Justice Hayut referred to equality, she imbued it with values derived from Judaism, not from those of liberalism. In addition, the second quote above, is in the context of Chief Justice Agranat’s remarks quoted at the beginning of the chapter, in which Agranat refers to the Israeli legal system and links the concept of the “people” to the concept of the “nation,” again, imbuing them with Jewish values: “It is a well-known axiom, that the law of a people must be studied in the mirror of its national system of life.” That is, it would be reasonable to assume that it was clear to Agranat that the Israeli legal system does not rely on any value system other than the Jewish one, for example, the Islamic one, notwithstanding the fact that some of the country’s citizens are Muslims. Therefore, it can be said that Agranat, referring to the people and the nation, actually establishes two Jewish categories, excluding, even if inadvertently, those who are not Jewish from the people and the nation of the State of Israel. Such possible interpretation teaches us about the affinity between Jewish culture and the culture of law in Israel.

As I demonstrated in the previous chapter, Jewish culture provides its members with strategies of action – the chronotope of time, which constitutes the consciousness of the Holocaust; the chronotope of space, which constitutes the binary conception of space; the absent character, constituting blindness. Thus, continuing to examine Justice Solberg’s definitions of equality, according to the Jewish perspective, reveals how all these strategies operate:

Equality of rights for **all the inhabitants of the country** is a Jewish value in two ways: **Our people’s historical lesson, suffering during the long years of exile from injuries, humiliations, the Crusades, and most horrible of all – the Holocaust of the Jews of Europe; Its horrors are widely expressed in the Declaration of Independence**. We have completely accepted and assumed, through the Declaration of Independence, to treat the minorities living among us differently from the way we had been treated: To grant them equal rights, to allow them to speak their native languages, to wear their garments, and to adhere to their religions. However, it was not only the lessons of Jewish history that emphasized the need to treat the minorities living amongst us with dignity; Jewish heritage demands this from our people, and it is an in-built, basic, primary value, from time immemorial.[[17]](#footnote-17)

The perception of persecution, the Holocaust being its ultimate expression, is like a clock ticking for thousands of years of exile and persecution, clearly heard by the Court. Unlike the chronotope of the interviewees’ time, which focused mainly on Holocaust consciousness, Hayut expanded it to the entire period during which Jews were in exile. Hayut’s chronotope of time organizes her reality for her; according to it, being a Jew means first and foremost, being persecuted at all times and in all places, that is – the chronotope of “the persecuted.” Justice D. Barak-Erez emphasized this later on: “The truth must be told: The history of Israel and of the Jewish people is not ordinary history.”[[18]](#footnote-18) Hence, the point of reference, according to which the Jewish origins of the principle of equality are determined, is the chronotope of the persecuted, and only after that does Jewish heritage rely on the Bible.

At the beginning of the quote above, Justice Solberg notes that the principle of equality applies to all the “inhabitants of the land,”[[19]](#footnote-19) thus a position is expressed here, regarding the perception of space. It was Adalah’s petition that pointed to the dual use of “*Eretz Israel*” [The Land of Israel] and the “State of Israel,” asking the Court to express its opinion on the matter:

Another argument raised by some of the petitioners is that the Basic Law – Israel as the Nation State of the Jewish People, seeks to apply itself outside the borders of the State of Israel, in violation of the principle of territorial sovereignty recognized in international law. The petitioners deduce this from the use of the term “Eretz Yisrael” instead of the “State of Israel” (Section 1(a) of the Basic Law – Israel as the Nation State of the Jewish People), as well as from various sections in the Basic Law from which it appears, according to them, that the State of Israel has an obligation to act in the Diaspora.[[20]](#footnote-20)

President Hayut replied in the following manner:

It is presumed that Israeli legislation is territorially applicable. The reason for this lies in considerations concerning the rule of law, as well as considerations concerning maintaining proper relations with the nations of the world. This presumption is rebuttable however, when a law seeks to apply itself to persons or actions outside Israel, or in areas where the law, jurisdiction, and administration of the State of Israel do not apply – the law must state so explicitly or implicitly. According to the court, it is not possible to say that the Basic Law – Israel as the Nation State of the Jewish People has – explicitly or implicitly – has applicability outside the territory of the State of Israel*.*[[21]](#footnote-21)

On the one hand, the Court (Justice Solberg) uses the category of “inhabitants of the land” (see my emphasis above), and on the other hand, seeks to dispense with the need to rule on the categories specified in the Adalah petition. Even if we can understand the reasons why Justice Solberg avoid ruling on the location of concrete territorial boundaries, we can certainly wonder about the use of the “inhabitants of the land,” on the one hand, and the lack of clarification of the meanings and differences between the various categories, on the other. One possibility is that the Court’s perception of space is not concrete, because it stems from the binary space chronotope, according to which the external space is threatening, and the specific boundaries are irrelevant. It is for good reason that Chief Justice Hayut quoted MK Ohana, who argued that the question of the 1967 borders is not the main issue in the Nation-State Law but the presence in principle of Jews in this area.[[22]](#footnote-22) Thus, the spatial perception of the Zionist left wing and the Court, unlike that of National-Religious Zionism, does not lie in concrete space, but in the question of how one can move away from the space that is “outside,” because it threatens the continued existence of the Jewish collective.

As a result, it can also be said that a person who is “outside” is necessarily threatening, unless that individual is Jewish, and this is the organizing strategy that allows the Zionist left to accept the Law of Return as legitimate. When Hayut addresses the issue of discrimination and infringement of the principle of equality, she quotes from the High Court’s Ka’adan case.[[23]](#footnote-23) In essence, Hayut accepts the imagery referring to the State of Israel as a “home” and to the Law of Return as the “key” to the home:

Interpretation of Section 1 of the Basic Law – Israel as the Nation State of the Jewish People as a provision that denies personal rights to those who belong to a minority group, or as a provision that confers excess personal rights to those who belong to the Jewish people, implies a discrimination that cannot be tolerated among the citizens of the state. This type of discrimination has no place in the constitutional make up of the State of Israel, and in this context, it has been stated more than once that the state’s character as a Jewish nation-state does not contradict the fact that all the state’s citizens have equal rights: “The State of Israel is a Jewish state in the midst of which minorities reside, amongst which is the Arab minority. Every member of the minority groups living in Israel enjoys complete equality of rights. It is true, a special entrance key to the house is given to the Jewish people (see the Law of Return), but once a person is in the house as a legal citizen, he enjoys equal rights like all other members of the household.”[[24]](#footnote-24)

That is to say, the State of Israel is the home of the Jewish people; only Jews can obtain a key to this house, by means of the Law of Return, but anyone who is not a Jew, is necessarily a threat that must be kept at arms’ length in the threatening space. Admittedly, the Court declared that whoever is already inside the house – is a part of it. But if we return to the non-concrete conception of the state’s borders according to the Court, then there is a problem – if we do not know what the concrete territorial boundaries are, how do we know who is inside the house, and who is outside it? That is, anyone who is not a Jew, is in a constant state of uncertainty – is he inside the house? Or is he in the threatened space of the Jew?

How then can one explain the manner in which the Court ignores such an issue so vital to the minority group it is supposed to protect? A possible solution is that the strategy of the absent character is driving the Court’s course of action. Just as the discourse of the Zionist left does not speak of minority groups in Israel by using their concrete names, neither does the Court:

The duty to treat the **minorities** living **amongst us** equally is therefore derived not only from the fact that the State of Israel is a democratic state; It also draws on the Jewish values ​​of the state, Bible verses, the teachings of the sages. Judaism commands us to treat every person with respect, and in any case instructs us not to **discriminate** against him, not to harm their **dignity**.[[25]](#footnote-25)

The Court’s semantics produces a distancing and exclusion when it speaks of “the other,” the other that is not “us,” who “dwells among us.” Although there are appropriate ways to maintain respectful rhetoric, articulating in a manner that allows various cultural groups to be present, and thereby giving concrete meaning to the value ​​of equality, the Court replicates and enshrines, within the judgment itself, the linguistic shorthand that reinforces the binary separation of the Jewish “us,” as opposed to the amorphous “they.”

This separateness is also present in the significant gap created between case law that confirms the preservation of the relationship between the state and Diaspora Jews, but does not get involved in any critical discussion of how a Basic Law, which deals with the state’s identity, and how it will act to realize this, should address every cultural group in the country. That is, the Court does not entrust the state with the task of completing the legislation, so just as the National-State Law applies, in principle, to the relationship between the state and the Jews of the Diaspora, so it must, in principle, also relate to the state’s relationship with all the cultural groups it is responsible for.

Another matter that cannot be ignored, is Chief Justice Hayut’s failure to employ the language of “citizenship,” or the “Arab citizens,” even though it was self-evidently necessary to speak in such terms, and employ such civic language, when referring to the population groups that comprise the state.

These characteristics are part of the absent character strategy, as they avoid trying, or are unable, to see reality from other perspectives. That is, even if the Zionist left, or the Israeli Court, knows that other entities are present and exist in their environment, the strategy of the absent character – which makes present the chronotope of Holocaust consciousness, and the binary space chronotope, both stemming from a threatened reality – signals for them, that “the other” is a threatening factor, more prudently ignored.

**12.2 Summary**

In this chapter I have analyzed the judgment of the Supreme Court, with respect to the multiple petitions filed against the National-State Law. My purpose was to point out that even in the Supreme Court, we can see how the strategies of action which characterized the Israeli left wing are reflected in the judgment when discussing the relevance of the National-State Law. As a theoretical framework, I have relied on approaches that deal with the relationship between law and culture, which have been described and analyzed by Menachem Mautner in his writings over the past two decades. As I have shown, when we engage in textual interpretation, we can extract strategies of action that stem from the cultural repertoire, and can thereby understand how culture, the legal system, and the law, mutually establish, influence, and complete one another.

1. PAUL W. KAHN, *The Cultural Study of Law: Reconstructing Legal Scholarship* (2000). [↑](#footnote-ref-1)
2. MENACHEM MAUTNER, *Law and Culture* (2008). [↑](#footnote-ref-2)
3. MENACHEM MAUTNER, *Law and Culture* *in Israel in the Twenty First Century* (2008). [↑](#footnote-ref-3)
4. CLIFFORD GEERTZ, *Local Knowledge: Fact and Law in Comparative Perspective*, in LOCAL KNOWLEDGE 167 (1983). [↑](#footnote-ref-4)
5. PIERRE BOURDIEU, *The Force of Law: Toward a Sociology of the Juridical Field*, 38 HASTINGS LAW J. 805 (1987). [↑](#footnote-ref-5)
6. KENNEDY, DUNCAN. *Legal Education and the Reproduction of Hierarchy: A Polemic Against the System*. Vol. 56. NYU Press, 2007. [↑](#footnote-ref-6)
7. ALON HAREL AND YAIR LORBERBAUM, *Reflections on the Dangers of Law and Culture*, **Mispatim** *Mem* 942 (2011). [↑](#footnote-ref-7)
8. MENACHEM MAUTNER, *Answer to Harel and Lorberbaum*, **Mispatim** *Mem* 983 1001 (2011). [↑](#footnote-ref-8)
9. The legitimate power of the law has been particularly emphasized by thinkers from the field of Critical Law Studies, See *e.g*. MARK TUSHNET, *Critical Legal Studies: A Political History*, 100 YALE L.J. (1991); DUNCAN KENNEDY, *A Critique of Adjudication: Fin de Siécle* (1997). [↑](#footnote-ref-9)
10. *HCJ* 18/5555 **Hasson v. The *Knesset*** and 14 other petitions (Judiciary’s Website July 8, 2021); (hereinafter: “**Nationality Act HCJ**”). [↑](#footnote-ref-10)
11. The Knesset also raised arguments against the application of the doctrine of unconstitutional constitutional amendment, which for the purpose of this paper, I saw no point to review. [↑](#footnote-ref-11)
12. Nationality Act HCJ, *supra*. Footnote 89, para. 9 of Chief Justice A. Hayut’s opinion. [↑](#footnote-ref-12)
13. *Ibid*. [↑](#footnote-ref-13)
14. *Ibid*, para. 10 of Chief Justice Hayut’s opinion. [↑](#footnote-ref-14)
15. *Ibid*, para. 29 of Justice N. Solberg’s opinion. [↑](#footnote-ref-15)
16. *Ibid*, para. 20 of Chief Justice Hayut’s opinion. [↑](#footnote-ref-16)
17. *Ibid*, para. 29 of Justice N. Solberg’s opinion. [↑](#footnote-ref-17)
18. *Ibid*, para. 28 of Justice D. Berak-Erez’s opinion. [↑](#footnote-ref-18)
19. *Ibid*., *supra*., Footnote 96. [↑](#footnote-ref-19)
20. *Ibid.*, para. 53 of Chief Justice Hayut’s opinion. [↑](#footnote-ref-20)
21. *Ibid.* [↑](#footnote-ref-21)
22. *Ibid.*, para. 54 of Chief Justice Hayut’s opinion. [↑](#footnote-ref-22)
23. In re Ka’adan, *supra*., Footnote 57. [↑](#footnote-ref-23)
24. Nationality Act HJC, *supra*., Footnote 89, para. 63 of Chief Justice A. Hayut’s opinion. [↑](#footnote-ref-24)
25. *Ibid*., para. 34 of Justice N. Solberg’s opinion [emphasis added]. [↑](#footnote-ref-25)