



Summary of Court Ruling on Nationality Law – HCJ 7052/03

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The High Court of Justice, in an expanded panel of 11 justices, delivered its ruling today [14 May 2006] on petitions challenging the constitutionality of the Nationality and Entry Law (Temporary Order) 2003. The majority ruled to reject the petitions.

A number of views were expressed in the ruling. **Chief Justice A. Barak** wrote one [of two] main opinion. He found that the law violates the constitutional right to family life and equality to a disproportionate extent, and that it would therefore be appropriate to cancel the law. Four justices concur with the Chief Justice's position in its entirety: Justices **D. Beinisch**, **A. Procaccia**, **S. Joubran** and **E. Hayut**.

Deputy Chief Justice (retired) **M. Cheshin** wrote the second main opinion. He found that the law does not violate constitutional rights, and that even if there is such violation, then it is proportional. His conclusion is that the law is constitutional. Four justices concur with this conclusion. Justice **M. Naor** subscribes to Justice Cheshin's position in its entirety. Justice **A. Grunis** was prepared to assume that the law violates the constitutional right to family life, but his position is that this violation is proportional. Justice **J. Adiel** was of the opinion that the law violates the constitutional right to family life but that this violation is proportional. Justice **E. Rivlin** also believes that the law violates constitutional rights to family life and equality, and that this violation is proportional. In addition, he was of the opinion that there is no need to rule on the petitions, as the law will expire in a short period of time.

Justice **E. Levy** believes that the law violates the constitutional rights to family life and equality to a disproportionate extent. Nonetheless, he believes it is appropriate to allow the state a period of nine months to formulate an alternative constitutional arrangement. Therefore, his position is that the petitions should be rejected for now.

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Below is a summary of the ruling and the justices' positions.

The Facts and the Arguments

The Nationality and Entry into Israel Law prevents Palestinian residents of the region [the Occupied Palestinian Territories] from entering the territory of Israel. Thus, it prevents family unification in Israel between Israeli spouses and their Palestinian spouses who are residents of the region. A number of exceptions were stated in the law. Among them, the commander of the region is authorized to grant permits to stay in Israel for the wife of an Israeli citizen if she is over the age of 25, and to the husband of an Israeli citizen if he is over the age of 35. The law also enables the granting of temporary permits for work and health needs, and it allows for granting permits to spouses who submitted their applications for family unification prior to its enactment. The law in its current version was published on 1 August 2005. It is valid until 16 July 2006. The government, with the Knesset's consent, is authorized to extend the law for a period not exceeding one year each time.

The petitioners' main argument is that the law violates the constitutional rights to family life and equality. The law violates the right to family life in that it prevents family unification of Arab Israeli spouses with their Arab spouses from the region (subject to age exceptions). In addition, this directive imposes restrictions on the relationship between an Israeli parent and his child registered in the region. The law violates the right to equality in that its injury focuses on Arab citizens of Israel, since they are the ones who marry Palestinian spouses from the region. The petitioners also argue that the infringements of constitutional rights do not meet the conditions of the limitation clause [of the Basic Law: Human Dignity and Liberty]. Their contention is that the purpose of the law is unacceptable since it is based on demographic considerations. In addition, the law's severe violation of basic rights is not proportional. The law sweepingly prevents the possibility of family unification for all couples who do not meet the age conditions. The state should have defined mechanisms for individual security checks and should prevent family unification only for those who pose a threat to the security of the state.

The state emphasizes the security background and the security purpose on which the law is based. The law was legislated against the background of the terror offensive Israel has faced in recent years. Terrorist organizations have received assistance in a number of cases from Palestinians who received status in Israel through family

unification proceedings. Terrorist organizations are continuing in their efforts to recruit activists among those with status in Israel. Moreover, the loyalty and commitment of Palestinians is to the Palestinian Authority, which is engaged in a conflict with Israel. The law was enacted against the background of these concerns and in order to prevent the security risk. The state argued that the law does not violate basic constitutional rights. The concept of “human dignity” should be given a narrow interpretation, and should not include the full scope of the right to family life and the right to equality. And even if the law violates these rights, this infringement is for an appropriate purpose. The law is designed to protect the lives of the residents of Israel. The violation is also not excessive. The state points out the difficulty in individually examining those seeking family unification in light of the difficulty in collecting information, [and] the difficulty in confirming that someone who has already received a permit to stay in Israel will not be recruited for terrorist activity in the future.

Chief Justice Barak’s Ruling

At the center of the Chief Justice's ruling, stands the Israeli spouse. It does not deal with the rights of the foreign spouse. The Chief Justice takes note of the security background in which the law was legislated and describes the severe terror offensive Israel faces. But even during wartime, there is a place for judicial review of laws. Human rights should be protected during times of peace and times of war. Chief Justice Barak goes on to examine the constitutionality of the law. This examination is conducted in three stages: First, were constitutional rights violated? Second, if there is a violation, does it meet the conditions of the limitation clause? Third, if there is a violation that does not meet the conditions of the limitation clause, what is the appropriate remedy?

First, Chief Justice Barak states that the right to family life and the right to equality are included in the constitutional right to human dignity, anchored in Articles 2 and 4 of the Basic Law: Human Dignity and Liberty. The Israeli spouse’s right to family life means his right to fulfill family life with his spouse in Israel. There is where his home is, there is where his community is, and there is where his historical, cultural, and social roots are. This is also the right of the Israeli parent to have his minor children live with him in Israel. The law violates these constitutional rights. It prevents Israeli spouses from fulfilling their right to family life in Israel. This violation targets the Arab citizens of Israel. Consequentially, the law also violates the right of the Arab citizens of Israel to equality.

Second, Chief Justice Barak examines the conditions of the limitation clause. The purpose of the law is appropriate. Its purpose is security, and it was designed to provide a response to the security risk stemming from the involvement in terrorist activities by some of those who had received a status in Israel via family unification. With regard to the requirement for proportionality: the law meets the first two conditions. There is a rational connection between the law and its purpose, because the prohibitions stipulated in the law contribute to realizing its security purpose. The law also meets the condition “of the lesser injurious means.” The individual examination the petitioners advocate would indeed entail a lesser violation of rights, but it does not ensure the same level of security achieved by the sweeping prohibition. But does the added security achieved through the sweeping prohibition appropriately correlate to the additional violation to human dignity inherent in this sweeping prohibition? This is the third test of proportionality. Chief Justice Barak’s answer to this question is in the negative. The security end does not justify all means. The worthy goal of enhancing security does not justify a severe infringement on the lives of many thousands of Israeli citizens. Democracy and human rights cannot be maintained without taking risks. Considering the fact that the legislator was willing, in the framework of exceptions to the law, to take the security risk entailed in the individual security checks of workers, spouses who meet the age conditions, and spouses who submitted their application prior to the enactment of the law, the state had a duty to be satisfied with individual examination also with regard to other spouses. This is especially true if we recall that the efficiency of individual examinations could be improved through various means.

Third, Chief Justice Barak proceeds to the question of the constitutional remedy. His position is that it is appropriate to order the law void, and to suspend the declaration of it being void until 16 July 2006. Nonetheless, if the state requires an additional period of time to formulate its position and seeks to legislate the law in its current language, the declaration of it being void will be suspended for an additional six months.

Deputy Chief Justice Cheshin’s Ruling

The retired Deputy Chief Justice, Justice Cheshin, disagreed with Chief Justice Barak’s position and determined that there is no justification for canceling the Nationality and Entry into Israel Law (Temporary Order) 2003 – neither in its entirety nor in part. According to Cheshin, although the law harms Israeli citizens seeking to marry

Palestinian spouses and to live with them in Israel, no constitutional reason arises to overturn it. Justice Cheshin's opinion is built on these three main foundations:

1. Lack of constitutional right: The citizens of the state have not acquired a constitutional right – a right that empowers the cancellation of Knesset legislation – for their foreign spouses to immigrate to Israel following marriage. The right of “human dignity” does not impose a constitutional duty upon the state to permit entrance into Israel for foreign nationals who have married citizens of the state; and the State of Israel – like any state in the world – is entitled to limit by law the immigration of foreign nationals into Israel, including the spouses of Israeli citizens. This conclusion regarding the non-existence of a constitutional right to bring a foreign spouse into Israel is based on a consensus that a state, any state, is not obligated to allow foreigners to enter its domain, and all the more so, that it is not obligated to allow foreigners to settle within it, permanently or even temporarily. The supreme principle of the sovereignty of the state teaches this to us. The face of the state is like the face of its residents. The residents of the state are the ones who shape the image of the society, and the “state” envelopes the society and its residents. The entry of a foreign national to the state as a permanent resident constitutes a change in the *status quo ante* of the relations between the citizens and residents, among themselves. The acquirement of the right by an individual to bring a foreign spouse into Israel could, therefore, change the face of the society. The human dignity of the citizens of Israel – of each citizen of Israel – requires that a free hand will not be given to each citizen, on the level of a constitutional right, to change the social *status quo ante* by bringing foreigners into Israel, even as spouses.
2. State of war: The State of Israel is at war (or quasi-war) with the Palestinian Authority and the terrorist organizations that operate from within it. And, in a time of war, a state is entitled to prevent the entry of enemy nationals into its territory, even if they are married to citizens of the state. The Palestinian residents of the region are enemy nationals, and as such, they constitute a risk group to the citizens and residents of Israel. For this reason, the state is entitled – for the protection of its citizens and residents – to legislate a law prohibiting their entry into the state. This is also the reason for the rejection of the argument of discrimination and violation of equality, since the indirect distinction made by the law – which pertains to the residents of the region and not to the citizens of the state – is between the

citizens of the state is a permissible distinction between citizens of the state who married foreign nationals who are enemy nationals and citizens of the state who married foreign nationals who are not enemy nationals.

3. Meeting the criteria of the limitation clause: In Justice Cheshin's view, the criteria of the limitation clause of the Basic Law: Human Dignity and Liberty are fulfilled in this case. Justice Cheshin does not agree with Chief Justice Barak's determination that the law does not meet the test of proportionality. According to Cheshin, the benefit it brings to the security and lives of the residents of Israel outweighs the injury to a small number of Israeli citizens who married residents of the region and seek to live with them in Israel. The law was legislated based on information that security officials provided, according to which, terrorist organizations are making efforts to recruit into their ranks those who have already received Israeli documentation, and that the security services find it hard to distinguish between Palestinians who might assist terror and those who are not likely to assist terror. The law was enacted in the form of a temporary order; broad exceptions were stipulated in it; and in these circumstances, we find it difficult to accept that the balance the Knesset chose between the security of these citizens and injury to those who wish to live with their foreign spouses in Israel is not proportional.

The law harms a small number of the citizens of Israel who seek to marry Palestinian spouses and reside with them in Israel, and as human beings we cannot but identify with the pain of those innocents whose right to conduct family life in Israel is harmed. But as long as the Palestinian-Israeli armed conflict continues, as long as Palestinian terror continues to indiscriminately strike at Israel and take the lives of innocent, peaceful Israelis, and as long as the security services find it difficult to distinguish between those aiding our enemies and those who are not aiding our enemy, it is appropriate to deny the right of a few to conduct family life in Israel in favor of the right of all residents of Israel to life and security. This is the right – moreover, it is the duty – of the state, of any state, to protect its residents from those wishing to harm them. And it derives from this that the state is entitled to prevent the immigration of enemy nationals into it – even if they are spouses of Israeli citizens – while it is waging an armed conflict with that same enemy.

Justice Beinisch's Ruling

Justice D. Beinisch concurs with Chief Justice Barak's opinion. Justice Beinisch agrees with Chief Justice Barak's conclusion that the law, in its present form, in its sweeping and all-encompassing scope, cannot stand because of its disproportionate violation of the right to family life and its violation of the right to equality. The lack of the possibility of conducting individual examination and the law's sweeping prohibition on the entry of Palestinians into Israel for the purpose of conducting family life with their Israeli spouses, grants excessively wide margins to the value of security without appropriately addressing other rights and values that conflict with this value. Justice Beinisch notes that Israeli society must preserve its image as a society that respects the rights of its individuals even during times of emergency and war. The protection of human rights must be maintained in days of war, as in days of peace, although the appropriate balance point for protection moves and changes.

Justice Joubbran's Ruling

When searching for a spouse, in one's shared life with a spouse, and in creating one's family, a person builds a refuge from the world, realizes oneself, creates one's identity and fulfils one of the central components of one's personal autonomy. At the very core of the constitutional right to family life and marriage is a shared life under a single roof. Infringement of a person's ability to conduct a shared life with his spouse in Israel constitutes, in effect, the complete denial of the constitutional right to conduct family life.

These severe violations of the right to family life do not stand alone, but are accompanied by the harsh infringement of the right of Arab citizens of the state to equality since they are the primary individuals hurt by this law, if not the only ones. There are cultural, familial, social and other ties between the Arab citizens of Israel and the residents of the region, and thus, naturally most of the Israeli citizens who find their spouses among the residents of the region are Arab citizens. In preventing the possibility of marrying residents of the region, there is an infringement that targets, first and foremost, the Arab citizens of the state, while the injury to other citizens of the state is merely theoretical. Despite the supreme importance of the right of all citizens of the state to security, it is impossible to permit, even in the framework of exercising a right, this law's sweeping violation of the rights of Israeli citizens to family life and equality. A state that views itself as a civilized state, cannot accept legislation that so severely and stridently violates basic human values as part of its set of laws.

Justice Hayut's Ruling

Justice A. Hayut concurs with Chief Justice Barak's ruling. The justice states in her ruling that the armed struggle waged by Palestinian terrorist organizations against the citizens of Israel and its Jewish residents requires an appropriate deployment and the mobilization of all of the means available to us as a state, including the enactment of laws that provide a response to security needs. This is the aim of the Nationality Law and from this perspective it was legislated for an appropriate purpose. Nonetheless, it should be recalled that the fear of terror, like any threat, is liable to be a dangerous guide for the legislator seeking to deal with the causes of this fear. It is liable to lead to the imposition of sweeping prohibitions, like the prohibition stipulated in the Nationality Law with regard to granting status to residents of the region. Such a sweeping prohibition demarcates wide and blind [indiscriminate] security margins, and unjustifiably and disproportionately harms many thousands of members of the Arab minority living among us. Justice Hayut also states that one's right to choose the spouse one wishes to build a family with, as well as the right to build one's home in the state in which one lives, are human rights of primary importance, and although – like any other basic right – they can be limited, security needs cannot justify collective and sweeping prohibitions that are not attentive to the individual. The justice also states that in light of the security situation and the great hostility that exists between Israelis and Palestinians, there is room for the “presumption of dangerousness” that the respondents wish to apply to this matter of family unification between Arab citizens of Israel and residents of the region. But in order for the fear of terror not to lead us to overstep our democratic character, this presumption cannot be absolute; it should be possible to contradict this presumption within the framework of individual examination that should be allowed in each and every case. The Nationality Law does not allow for such an individual examination, and thus, herein lies, from a constitutional perspective, the flaw of disproportionality from which it suffers, a flaw that justifies declaring it void.

Justice Procaccia's ruling

Justice A. Procaccia concurs with the Chief Justice's position that a person's right in Israel to family life under the condition of equality is a component of human dignity, and it is considered a constitutional right of primary importance. The law under examination violates the right of an Israeli spouse when it does not enable him to conduct family life with his Palestinian spouse from the territories. While the law is designed for an appropriate purpose, it does not meet the test of proportionality of the limitation clause. In the balance of values between the right of a person harmed by the sweeping

prohibition on conducting family life and the opposing security interest, the first value takes precedence.

Unlike the approach of the Chief Justice, who adopts the security consideration as argued by the state for the purpose of weighing the conflicting values, Justice Procaccia raises doubts about the reliability and strength of this consideration. The state has a heavy burden in proving the weight of the security consideration is a value that constitutes a justification for a sweeping denial of the right of Israeli citizens to conduct family life. The security value must be examined in a two-stage test of reliability and strength. With regard to reliability – while the reliability of the security consideration should not be denied, the demographic aspect was raised and discussed during the law's legislative process as a reason to sweepingly prohibit the entry of Palestinian spouses into Israel. The possibility of the existence of another motive underlying the legislation, as stated, is liable to project upon the weight and strength of the security consideration. With regard to the strength of the security consideration – the information the state presented detracts from the strength of the security argument. This data includes a low percentage of suspects in terrorist activity among those who have received status as a result of family unification, relative to the overall number of residents of the region who have acquired status in Israel; a very larger number of Palestinians workers who are permitted to enter Israel every day; and a relatively high percentage of involvement in terror among citizens of Israel. With regard to the last two [Palestinian workers and Israeli citizens], the state suffices with individual means of inspection and does not generally impose a sweeping policy to cope with the security risk. The sweeping prohibition vis-à-vis those seeking family unification is not consistent with the policy applied by the state in other areas of risk and raises doubts about the strength of the security consideration in this matter. Therefore, the state did not fulfill the heavy burden imposed upon it to show the strength of the security consideration as a value justifying the sweeping denial of the right of Israeli citizens to conduct family life with their spouses from the territories. According to this approach, there is a significant disparity between the strength of the violation of primary human rights inflicted by the law and the relatively low strength of the security consideration. The appropriate balance justifies protection of the right to family on one hand, while responding to the security need through individual examinations for those seeking entry into Israel and implementing proportional means of monitoring after their permitted entry. Thus, the law is void due to its unconstitutionality, and the remedy is as stated in the Chief Justice's ruling.

Justice Grunis' Ruling

Justice A. Grunis agrees with the main points of Deputy Chief Justice's (retired) M. Cheshin's opinion. However, for the purpose of discussion, Justice Grunis is prepared to assume that the law indeed violates the constitutional right to family life of the Israeli spouse since it does not allow him to bring his Palestinian spouse residing in the region into the country.

With regard to the third sub-test of the proportionality test in the limitation clause, Justice A. Grunis disagrees with the position of Chief Justice's A. Barak that calls for examining whether the probability of increased harm to human life in transitioning from a sweeping prohibition to individual security examination balanced with the definite added infringement of the rights of citizens of the state to family life. According to him, there is certainty that the entry of thousands of additional spouses would lead to injuries to human life even if a individual check was conducted, although there is no way of saying what the scope of these injuries would be. Therefore, the equation does not contain a probable basis on one side and a certain basis on the other side, but rather two certain components: harm to human life versus harm to family life.

Justice Grunis refers to the constitutional space to maneuver while stating that one of the factors that is likely to affect the borders of this space is the fear of judicial error. The fear of judicial error should be addressed from both directions. That is, not only from the perspective of an error pertaining to ruling the law constitutional, but also from the perspective of an error pertaining to the opposite ruling – that the law does not meet the test of constitutionality. According to him, a greater weight should be given to an error on the side of the equation on which lies the right to life. Justice A. Grunis goes on to note that if it later becomes apparent that the court's cancellation of the law constituted a mistake that caused serious harm, and that in fact there is justification for setting a sweeping prohibition, it would be very difficult to reverse the situation with regard to those who had already entered the country lawfully. Since the error is liable to cause severe harm, and certainly because of the great difficulty in rectifying it, to the point of being nearly irrevocable, the law must remain in effect. Justice A. Grunis notes that the risks that would result from the cancellation of the law compel the court to refrain from revoking it, even if this entails the violation of a basic right. Therefore, in his opinion, the petitions should be rejected.

Justice Naor's Ruling

Justice M. Naor determines that the petitions should be rejected. In her view, the law does not violate constitutional human rights, and even assuming that it does, this infringement meets the conditions of the limitation clause. The justice states that the right to family life is a constitutional right. However, this constitutional right does not include the right to realize family life with a foreign spouse necessarily in Israel. It cannot be determined that there is – in practice – international recognition of such a right as a constitutional right. The law also does not violate the constitutional right to equality, since it is grounded on a relevant differentiation based on a weighty argument. This argument is that there is a security risk for citizens and residents of the state inherent in granting status in Israel to residents of the region in light of the armed conflict between Israel and the Palestinian Authority. This is not a matter of discrimination on the basis of origin or race, but rather a relevant differentiation, in the framework of a battle against terrorism, on the basis of the foreign nationality of residents of a region from which hostile actions are launched against Israel. Even under the assumption that a constitutional human right was violated – this violation meets the conditions of the limitation clause and the violation is proportionate. It would certainly be preferable, if it were only possible, to conduct an individual examination that would remove the fear of the realization of the security risk. However, at this time, no real possibility exists for effective individual examination due to the lack of operational capability to obtain the information needed for clarifying the risk. Therefore, the choice of a means other than that chosen by the legislator is liable to prevent the realization of the law's purpose – to reduce the security risk as much as possible. For these reasons, Justice Miriam Naor stated that the law – which is a temporary law – does not suffer from unconstitutionality and that there is no reason to declare it void.

Nonetheless, the justice calls on the state to consider adding an exception to the law that would allow the granting status in Israel to residents of the region in humanitarian cases, and to also significantly raise the age for minors upon whom the law's prohibition will not apply.

Justice Adiel's Ruling

Justice J. Adiel ruled that the Nationality and Entry into Israel Law (Temporary Order) 2003 does not violate the right to equality, but infringes on the right to family life, which is included in the right to dignity according to the Basic Law: Human Dignity and Liberty. Despite this infringement, the law should not be revoked because in light of its

purpose and contribution to the security of the state, the infringement of the right to family life is proportionate and meets the conditions of the limitation clause in the basic law.

Justice Rivlin's Ruling

Justice A. Rivlin determines that there is no need to declare the Nationality and Entry to Israel Law void. It is not the practice of the court to rule on questions that have yet to arise or on questions whose time has past – this applies especially to petitions seeking to declare a law of the Knesset void. In our case, the law is a temporary order and is slated to expire soon anyway. Even though the temporary order has been extended from time to time in the past, its directives were revised in the direction of reducing the restrictions imposed on family unification. Therefore, there is no need to assume that what was will be, especially since the Knesset that enacted the Nationality Law – and has extended its validity – has dispersed and a new and different Knesset has been established in its place.

Nevertheless, Justice Rivlin also addresses the principle questions raised by the petition. Justice Rivlin concurs with the conclusion that the temporary order violates the right to family life and the principle of equality that are anchored in the Basic Law: Human Dignity and Liberty. Justice Rivlin emphasizes that even in times of emergency, the defining limits of basic rights should not be narrowed, and that the constitutional tests that apply during peace time are also appropriate in a time of emergency – although the application of the tests is likely to be influenced by the prevailing reality. In Justice Rivlin's view, the infringement of basic rights inherent in the temporary order meets the limitation clause's demand for proportionality. The public interest, which the temporary order is designed to realize, is nothing other than the right to life of specific people – Jews, Muslims, Christians and Buddhists – who are liable to be injured in a possible terrorist act. The temporary order could prevent harm to public security and human life, which individual examination would not prevent. The restrictions imposed by the temporary order only apply to Palestinian spouses living in an area that is today under hostile rule. The violation is limited in time, since it is a temporary order that is examined from time to time according to the existing circumstances and the legislature has in the past reduced the sweeping prohibition that was originally stipulated so that the infringement of the right was reduced. Justice Rivlin's position is that if another temporary order were enacted again, it should include a directive enabling the granting of entry permits into Israel in individual cases for humanitarian reasons.

Justice Levy's Ruling

Justice E. Levy emphasizes the emergency security situation in which Israel is immersed, the result of continual efforts by the Palestinian terrorist organizations to harm the citizens and residents of the state, by denying their right to life and security. This difficult reality becomes more acute in light of the extremist trends in parts of the Muslim world and especially the Palestinians' conscious choice to entrust the government in the hands of Hamas. The recent years have become a watershed for all things pertaining to the means to deal terror. As part of this, the arrangement for granting status in Israel to Palestinian residents of the territories by virtue of marriage can no longer stand and must be adapted to the existing security reality.

In Justice Levy's view, together with consideration of the security risk, any arrangement must also take into account the basic rights of the Israeli spouse who seeks to unite with a resident of the territories. The first of these rights is the right to family life, which derives from the constitutional right to dignity and includes both the right of person to marry a person of his choosing and the right to locate the family unit wherever he chooses. A second right is the right of the Israeli spouse to equal treatment to that enjoyed by other Israeli citizens seeking status for their spouses. The current arrangement violates these rights in a disproportionate way, both in the clear limitation on the ability to conduct family life and because it ignores the fact that most of those seeking to marry Palestinians from the territories are Arab citizens of Israel. Thus, the arrangement violates the democratic character of the State of Israel and the delicate fabric of relations with a significant public living within it.

In Justice Levy's opinion, on the basis of an appropriate balance between the rights of the individual and the security needs of the State of Israel, which cannot accept a constitutional "vacuum," there is no alternative but to leave the existing arrangement intact for now. But this should be for a period of no longer than nine months, during which an improved arrangement should be formulated that entails a lesser infringement of rights. The main revision required is to define means that would enable an individual examination of the extent of the security risk in each separate case. Among these measures, Justice Levy proposes establishing a "presumption of dangerousness" that the candidate for immigration would have to refute; prohibiting the immigrant from moving his place of residence into Israel prior to approval of his application request for family unification; and demanding that he declare loyalty to the State of Israel and its laws, and renounce his loyalty to another entity. Justice Levy concludes his ruling with

an expression of sorrow that activists of the terrorist organizations exploit for their benefit the sincere desire of Arabs from both sides of the border to unite in the covenant of marriage and thus inflict great harm onto members of the nation to which they themselves belong.