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Supreme Court Rulings on Nationality versus Reasonableness – Differences and Future Perspectives

In 2021, Israel's Supreme Court upheld the Nation-State Basic Law, affirming Israel as the nation-state of the Jewish people, while denying that it negates democracy or equality. Justice Karra dissented, in concern for minority rights. In 2024, the Court struck down an amendment to Basic Law: The Judiciary, which aimed to eliminate the “reasonableness” standard used to review government decisions.

This marked a historic precedent. This Article analyzes the Court's contrasting approaches. It explores why the Court upheld the Nation-State Basic Law, despite equality concerns, yet nullified the amendment impacting judicial authority. The analysis compares the majority's 2024 reasoning with Justice Karra's 2021 dissent, highlighting the use of similar arguments in opposing contexts.

Four explanations for this divergence are proposed:

1. Evolving judicial doctrine.
2. A strategic move to safeguard judicial authority.
3. Differing judicial worldviews on national identity and minority rights.
4. A dual approach that consists of resisting aggressive changes while accommodating broader consensus-based amendments.

The Article concludes that, regardless of how one views the 2024 decision, fostering broader, consensus-based agreements is crucial for maintaining a healthy balance of power among the branches of government.