
Hillel Nossek and Yehiel Limor

ABSTRACT

Although the state of Israel is a democracy, military censorship has been in use since its establishment in 1948 and is still imposed. The chapter analyzes the theoretical and practical grounds for military censorship in Israel based on an agreement between relevant parties: the government, the army, the media, and the public. Analysis of Israeli military censorship reveals that military censorship is not necessarily the enemy of the media and the public’s right to know. On the contrary and paradoxically, we show that in Israel’s case, military censorship not only performs its task of preventing the publication of information that threatens the national security, at times it sustains the country’s freedom of the press, freedom of information, and the public’s right to know.

Keywords: censorship; military censorship; freedom of the press; journalism; Israel.
In the sense of preventing the publication of information by the media, censorship is seen as a violation of the right to freedom of expression and freedom of information. It is thus regarded as a characteristic of nondemocratic regimes that use media censorship and other devices to control citizens and restrict freedom of expression and freedom of the press. In democratic regimes where freedom of expression and freedom of information are seen as fundamental aspects of democratic rule, censorship is considered a disgrace and is condemned as an act that weakens the basis of democracy.

Although this chapter deals with the case study of military censorship in Israel, we wish to argue that censorship also exists and is applied in all democratic countries. Censorship is effectively an inseparable part of the social structure and its social institutions, and thus, its existence is integral to every society even though it is not always identified and described as such.

Furthermore, the case of Israel, which is also relevant to other democratic countries in the modern age, reveals that military censorship is not necessarily the enemy of the media and the public’s right to know. Indeed, in Israel’s case, we see in fact that military censorship, which is also empowered to punish censorship violations, not only carries out its task of preventing information from being published that threatens national security but also paradoxically becomes the defender of freedom of the press, freedom of information, and the public right to know.

THEORETICAL BACKGROUND

The first question we should ask and answer before starting to address the theoretical and practical questions of censorship in general and censorship in Israel in particular concerns the definition of the term “censorship.”

*The Oxford English Dictionary* defines censor or censorship as follows: “an official with authority to examine books, magazines, plays, films etc. and to remove anything regarded as immoral or in other ways undesirable.”

Carl Jensen, who has conducted a special project on censorship in the American media since 1986, defines censorship as follows:

“The suppression of information, whether purposeful or not, by any method – including bias, omission, underreporting or self-censorship – that prevents the public from fully knowing what is happening in its society. (Jensen, 1993, p. 7)

Finally, Sameer (2008) defines censorship in the *International Encyclopedia of Communication* as “the control of speech and other forms of human
expression … Legally speaking, censorship involves the attempts of government agencies to restrict public forms of communication.”

It seems that all definitions of censorship stem from a normative position that is rooted in the schools of democratic and human rights. These definitions are founded on the belief that freedom of expression, freedom of the press, and freedom of information are fundamentals of democracy and any threat to them is an obstacle to the implementation of democratic ideals. Thus, censorship in all modes and in all spheres is an “enemy,” a typical trait of nondemocratic societies and regimes, and to be eliminated. It has also become a professional normative value for western media and journalists.

In this chapter, we argue this Western democratic view is problematic when applied to non-Western democratic states and nondemocratic states and even problematic when applied to western democratic states. According to these definitions, only governments can censor, (otherwise, it might be defined as something else that is not necessarily censorship), either by demanding prepublication approval of material or by imposing postpublication sanctions, or both. We therefore propose defining censorship as follows: “Censorship is a systematic, institutionalized, and purposeful act of preventing ‘publication’ across all kinds of media.”

Censorship is not just a governmental apparatus – it is built-in in every society and every social institution of any society. Censorship can be formally or informally applied, openly or secretly, by government bodies and organizations, and by civilian and even privately owned bodies and organizations. In fact, all social institutions create and operate censorship mechanisms, although they are often not known as such, to protect their values and norms.

Thus, political institutions apply censorship to safeguard their standing and prevent the dissemination of information that could undermine public support for the ruling elite; economic institutions will use censorship to prevent the dissemination of information, which, if made public, could harm the economic interests of the company or state or the economic and commercial outlets inside or outside the country; religious institutions will use censorship to halt the spread of ideas that could weaken faith or contain deleterious material that threatens sacrosanct moral and other norms (Limor & Nossek, 2001). Furthermore, educational institutions will try to prevent the spread of opinions and ideas that could challenge the consensus on ideals or conduct. And so the list goes on across all society’s institutions. Thus, Israel’s military censorship is just an example of the way censorship is applied in a democratic country, and in this case, the state and political
establishment use censorship to prevent the publication of information that could threaten or harm national security.

We can examine and explain the existence, development, and sustainability of censorship in general and military censorship in Israel in particular from several theoretical perspectives: Structural-Functional, Normative Theories of the Media, Normative-Professional Journalism, Critical Theories of the Media, Political Economy, and Jurisprudence.

*Structural-Functional Social Theory*

According to the social functional-institutional approach, the media has roles that serve citizens and their societies by satisfying their need for communication. One of the main roles is to monitor the environment in which the individual lives – both nature and society. The news (Nossek, 2008) in modern society serves as the main tool for supplying information to this end. Publicizing information has positive and negative functional outcomes for the individual and his society, and therefore, information and censorship are functional in maintaining harmony among the members of a society. According to this theory, social institutions relate with one another and the media as a social institution forms relationships with other institutions (political, social, religious, economic, educational, etc.). In this view, censorship is both a tool and an indicator of the relations between a society’s institutions.

*Normative Theories of the Media*

The normative theory of the media proposes a theoretical framework that in itself represents a norm for the practical implementation of a particular social system – the media. Normative theory’s philosophical roots come from general political theory, especially those approaches that laid the foundations for freedom of expression, of which freedom of the press is considered a part, and later the liberal democratic theories evolved, which conceive the media as the fourth branch of government with the task of disseminating information and criticizing the government’s actions. This led to the idea that any kind of censorship represents an attack on the freedom of the press and its capacity to criticize the government and must therefore be prevented. Siebert, Patterson, and Schramm’s (1956) “social responsibility” approach sought to establish how the media should function ideally to ensure a correct balance between the freedom to publish and safeguard
society and the individual’s values and rights and at the same time apply self-monitoring and control mechanisms aimed at preventing and even replacing external government and social controls.

As proponents of the democratic view argue, only in extreme cases can the state step in for the public good and suspend freedom of the press by imposing a limited and temporary form of censorship (as in the event of war or a particularly terrible natural catastrophe). The normative approach therefore insists that in a democratic state, there is no room for ongoing long-term censorship because this would entail a basic clash with values such as freedom of the press, freedom to criticize, and media independence. Although we cannot ignore normative theory’s bias toward western values, it is beyond the scope of this chapter to discuss the issues regarding this theory’s application to other non-American or Western-European forms of democratic government.

For decades following the 1950s, the “four theories of the press” supplied the most cohesive theoretical framework, which sought to propose an up-to-date historical typology of the state–society relationship on the one hand and the media as a whole (and the press specifically) on the other. In practice, this theory only delivered one worthwhile model of these relations – the “Social Responsibility” model based on the American formulation of political-social culture. In the 1980s, and to an even greater extent a decade later, mounting criticism of this theory could be heard, and there were even proposals for partial alternatives (Merrill & Lowenstein, 1971; Hachten, 1981; Picard, 1982; Altschull, 1984; Nerone, 1995; McQuail, 1994; Curran & Park, 2000; Hallin & Mancini, 2004). Almost all state–media relations theories have attracted criticism mainly focusing on three points: the theories’ validity following the collapse of communism, problems with considering them universal theories and models, and the argument that some models point to a deterministic view with all its implications.

The latest and most comprehensive effort to achieve a normative theory focusing on the media roles that generate social structures is that of Christians, Glasser, McQuail, Nordenstreng, and White (2009), who identified four roles: monitoring and control; helping society; the radical role; and the collective role. A different definition relating to the existence (or nonexistence) of censorship in normative terms will in fact be derived from each of these roles.

Normative-Professional Journalism

The normative theory of the media also lays the foundation for a normative theory of journalism. According to the normative-professional
approach, journalists adhere to professional norms arising from their social responsibility (Nossek, 2008, 2009). The press works for the public good and does not only serve its owners desire for profit and although the journalists receive their salaries from media organizations, they consider themselves public servants at the same time. We see the full practical expression of this idea in the radio and television public broadcasting networks that developed in European democracies, especially the British BBC model, which served as a role model for many countries around the world.

The practical implication of the normative-professional approach is that journalists have, and need to have, independent considerations and should be free of government influence and pressure. In other words, they must be censorship free. On the contrary, as public servants, they must sometimes accept “professional advice” from the government’s representatives to prevent the publication of items that could endanger the public or threaten national security. Examples of this are the media’s consent to censorship during war and its agreement to withhold publication at the government’s request, as in the British Defense Advisory (D) Notices system.

**Critical Theories of the Media**

The critical approaches, both those based on Marxist, neo-Marxist, or New Left theories and those based on radical democratic theories, all claim that the dominant class and ruling regime are interested in distorting the information supplied to the public to ensure reliance on the regime and blind acceptance of its orders and thus maintain the social and political status quo. The critical theories see any attempt to prevent information being published, especially information diverging from that spread by the regime and dominant elite, is a form of manipulation or censorship, and is fundamentally antidemocratic. The critical theories also argue that the advantages of publication are always greater than any possible damage caused by preventing the publication of information and is thus, essentially, a return to the early roots of liberalism and the belief in human reasonableness and the inevitable triumph of truth.

**Political Economy**

Another theoretical approach is that of political economy. According to this approach, the media are first and foremost commercial businesses
(Garnham, 1979; Ferguson, 1990; Golding & Murdock, 1991; Compaine & Gomery, 2000; Bagdikian, 2000), whose owners seek to maintain the existing political and social system, as any change is liable to upset the economic stability. The media cooperate with various elites, particularly the political one, who have identical interests. In other words, the media establishment is not the rival of the political establishment, but is actually its partner. The media’s willing agreement to the activities of the censor is thus only one instance of a much broader cooperation on the macro level. On the contrary, on the micro level, the competition between the different media, in their attempt to increase their circulation and rating, motivates the media to attempt to slaughter “sacred cows” from time to time, or at least to tickle them, to gain economic advantage.

**Jurisprudence**

Lahav (1985a) identified two theoretical approaches for analyzing legislation relating to the media in democracies. One approach is rooted in American political democratic tradition and was established in the First Amendment prohibiting legislation that abridges or impinges on the freedom of the press. The other approach, which is rooted in the continental European political social tradition, establishes freedom of the press as a basic right, translating it into laws specifically protecting press freedom. Israel has neither a constitution nor written law to defend the freedom of the press. Nevertheless, freedom of the press is founded on the country’s basic democratic principle as formulated by the founding fathers in the Declaration of Independence (a declarative, not a legal document, except for the actual declaration of Israel as a state), and in explicit legal language, set out in binding precedential rulings by the Supreme Court sitting as a High Court of Justice (Lahav, 1985b; as described later in the chapter).

**TYPES OF CENSORSHIP**

Historically, we can divide censorship into three basic categories: religious, political, and moral (Jensen, 1993). Elsewhere, we have also suggested an additional category, *security censorship*, which must be distinguished from political censorship (Limor & Nossek, 1995; Nossek & Limor, 2001). We have also suggested that economic media censorship is a separate category (Limor & Nossek, 2001).
We also suggest that each type of censorship can be applied on three levels, from the mass media’s point of view: (a) external (or imposed), by legislation, orders, or other means of pressure; (b) agreement – cooperative arrangements between the media and the government or other bodies to prevent the publication of forbidden or harmful material, which, on the one hand does not involve formal law and, on the other hand, does not make the media alone responsible; and (c) internal self-censorship, meaning self-restriction on the part of the media.

There are four levels of internal self-censorship: the media institution level, the level of the medium (e.g., press, radio, and cinema), the organizational level (the media outlet – e.g., New York Times), and the level of the individual professional. The first level, the institutional level, relates to the entire institution of a particular media, examples being the Press Councils active in many countries, including Israel. The second level is that of the medium, where relevant examples of such self-censorship include the internal censorship mechanism of the American movie industry and the British Press Complaints Commission (PCC). In all these cases, on both the institutional and the individual media levels, internal control mechanisms were introduced to avoid the imposition of external controls especially regarding moral issues and the protection of privacy.

On the third level, the organization, which relates to the newspaper, broadcasting station, or publisher, the actual organization imposes the editorial line or advertising policy and promises to prevent deviation from it by means of self-monitoring. Self-censorship has largely been discussed, especially in the 1990s, focusing on the economic aspects of the media (e.g., Underwood, 1993; McManus, 1994).

The fourth level, the individual level, is that of the lone media worker – the journalist, radio, television broadcaster, or author – who internalizes institutional or organizational norms and acts on this basis, obviating the need for other control mechanisms, internal or external.

CATEGORIZATION OF ACTION PATTERNS

Censorship generally has many faces. Its modes of action are also varied. Any attempt to examine external censorship of the mass media calls for prior categorization of the levels of censorship. We therefore propose seven criteria for categorization. These criteria are not necessarily dichotomous and most can be viewed as a continuum as follows:
Constitutional/legal level: Was censorship enacted through the power of legislation, enabling the institutional imposition of restrictions on security grounds or was there no legislation, as in Israel, where it is based on judicial precedents and an agreement between the government and the media.

Transparency level: Is the censorship overt or covert?

Institutionalization level: Is there formal censorship or are informal means used?

Tactical level: Is the censorship direct or indirect (e.g., by preventing access to information)?

Target level: Identity of the target of censorship or pressure to apply censorship? In the mass media’s case: Is the target the advertiser, the advertising agency, the information holder, the broadcasting/television channel, the communicator (editor, journalist, graphic designer, etc.), or the distributor (movie theaters, newsstands, etc.)?

Content level: Is the censorship directed toward news, entertainment and culture, or toward mass media advertising content?

Medium level: Is the censorship directed toward all the media, one medium, some channels, or one specific medium?

Not only do these criteria help with the examination of all forms of censorship (including military censorship) and patterns of action, they also allow us to map the censorship in a far broader social, cultural, and political context. Thus, for example, formal, open censorship aimed at bringing about change on the constitutional level may teach us about a government’s status and power on the one hand and the media on the other.

Before we begin our examination of the case of Israeli military censorship, and to fully understand its characteristics, we should look briefly at the main characteristics of the media in Israel.

THE MEDIA IN ISRAEL: MAIN CHARACTERISTICS

The Israeli media that emerged in the nineteenth century with the 1863 publication of the first two Hebrew language newspapers, HaLevanon and Havatzelet, which were shut down by the Turkish authorities a year after they opened (Limor, 1995), have several clear characteristics, some of them historical, others more modern:

All daily newspapers are national. Local papers, which first emerged in the 1970s and 1980s, are weeklies.
The political party press that had dominated the media scene for many years gradually disappeared and the only political party dailies in the early twenty-first century are limited circulation religious and Haredi journals (Limor, 1999). The disappearance of party ideology press is not unique to Israel. The same happened in other democratic countries such as Britain and Sweden.

Israel is an immigrant country with a rich and highly developed media in tens of languages. For example, about half of the dailies are in foreign languages.

**ELECTRONIC AND DIGITAL MEDIA**

Before the mid-1990s, Israel had only two national state radio stations – Kol Yisrael (Voice of Israel) and Galei Zahal (Israel Army Radio). Since 1995, in addition to the national stations, which are state or publicly owned, the new radio map includes 14 regional commercial radio stations. In the last decades of the twentieth century, especially since 1990, electronic communications shifted from a single, monopolistic public TV channel (that also broadcasted programs produced by Educational Television at set hours) to a publically regulated, commercial, competitive, multichannel system. The new multichannel map also contains three national television channels: (a) the public channel, Channel 1, which also operates Channel 33, and two commercial channels, (b) Channel 2, and (c) Channel 10. In addition to the national television channels, Channel 23 is administered by Israel Educational TV (an autonomous unit of the Ministry of Education) and has broadcasting time on Channels 1, 2, and 10. Cable television was introduced in 1990 and offers a wide variety of channels: local, national, and satellite, as well as designated commercial channels. The designated channels broadcasting on cable TV are commercial channels administered by private outlets. These use the cable infrastructure but were not owned by the Israeli cable company (HOT).

Since mid-2000, multichannel television has also been enriched by direct broadcast satellite (YES; Nossek & Adoni, 1996; Adoni & Nossek, 2001; Adoni & Nossek, 2007). The main characteristics of the Israeli media map of the twenty-first century are as follows:

- The new media technologies, and above all the Internet, have become an accepted part of Israeli life, and most Israeli homes own computers and have Internet connection (Adoni & Nossek, 2007).
The characteristic centralization found in many western countries rapidly intensified in Israel as well and was accompanied by a tendency toward cross-ownership. During the 1990s, most of the major communications channels, both print and electronic, were owned by three large communications conglomerations, each controlled by one family. The daily newspaper was the flagship of each conglomerator.

There are two interesting exceptions on the Israeli communications map compared to other democratic countries. The first is Army Radio, which mainly broadcasts to the civilian population. Although subordinate to the Army authorities, it produces news and current events broadcasts. The second exception is the Ministry of Education, which operates educational television, broadcasting current events programs, including political contents.

EXPLAINING THE ISRAELI CASE USING DIFFERENT THEORETICAL PERSPECTIVES

Sociologically speaking, Israel’s military censorship of the media can be perceived as a clear expression of Israeli society’s general character as a “nation in arms” (Horowitz & Lissak, 1989). The definition of Israeli society as a “nation in arms” explains how Israel has managed to keep itself a democratic state despite an ongoing war situation and the overriding importance of security in the daily life of Israel’s society and citizens. This pattern also explains the nonrigid boundaries between the military establishment and the civilian sector. This model is different from the “separatist army” model with its defined and impenetrable boundaries that characterizes most western democratic states.

The idea of being a “nation in arms” could indeed be applied to Israel until the mid-1980s. However, since then, Israeli society has increasingly tended to abandon this tradition and to move toward a “Civil Society” model. This is particularly pronounced in military discourse, which is an expression of political discourse (Peri, 1999). One of the expressions of this process is the increased importance of individualism in the Israeli value system accompanied by a decline in collectivist values (Katz, Haas, & Gurevitch, 1997; Ezrahi, 1997). At the same time, we find conflicting processes, primarily the strengthening of nationalist religious fundamentalism whose objectives differ from those of the “Civil Society.”
The fact that security issues were “locked in the closet” for more than 30 years reflected a general consensus that security was not open to public debate. But in the past two decades, the picture has changed and security has become part of the public discourse. Today, at the security-military level, we see open criticism of the army’s performance and the performance of other security agencies, which was unthinkable for decades. At the economic level discussion, the military budget has begun to attract media interest. On the social level, the decline in motivation of Israel youth to be conscripted into the army and the fall in number of volunteers for combat units has become matters of public debate. On the religious level, the exemption of students attending Yeshiva (religious seminaries) from compulsory conscription to the armed forces has become controversial. On the political level, the boundaries between the army and the political establishment have partially blurred with many high ranking Israel Defense Forces (IDF) and other security agency officers joining political parties, being elected to parliament, and gaining ministerial appointments soon after shedding their uniforms or positions. This trend was addressed in recent years through “cooling” laws demanding a cooling-off period of several years between leaving the security forces and jumping into the political arena.

The rift in Israeli society, which emerged after the First Lebanon War (1982) and widened after the signing of the Oslo Agreement (1993), exposed the fragile line between political and military issues. As a result, security, which for many years remained a taboo subject in public debate, has become the focus of growing public criticism. Both the media and the security-political establishments have been unable to ignore these changes that have led to greater openness by the army and other security agencies toward the mass media and forced the Military Censor to keep redefining what may and what may not be published.

The Primaries system adopted first by the two large parties and then by the rest brought many internal political struggles into the public arena, in other words, the media. Forced to find new ways to achieve mass exposure, politicians began to tell “stories,” providing headlines for the media and publicity for themselves. The search for “headline stories” often led to the “slaughter of sacred cows.” Many topics, previously filtered out for national security reasons, were placed on the public agenda. Examples of this include the public discussion on the future of the occupied territories (including wide-ranging discussion of a distinctly military character); the public debate on the development of the Lavi fighter plane (which led to cancellation of the project); and the military argument over the acquisition of new submarines, the discussion on the need to develop a sophisticated...
home-grown anti-missile missile, and almost every year or two, a debate on the Ministry of Defence budget.

Western democratic norms, accepted by most of the Israeli society, increased demands to end military censorship or at least make it significantly more flexible. This was indeed done. It has been recognized that only matters of prime national security interests may be kept secret, whereas all other matters can be openly addressed in the public arena. This might explain, for example, the public’s demand for information on accidents during military training and military operations. Parents of killed or injured soldiers were the first to make such demands and the media provided extensive exposure, leading in turn to greater parental involvement. In fact, a certain common interest developed between the parents on one side and the media on the other and the two sides became a kind of pressure group targeting the military establishment and military censor, forcing them to become more flexible on publicizing these matters.

Changes on the global map also called into question attitudes and definitions regarding the external threat to the state and consequently the importance of the security issue on the sociopolitical agenda. It seems that international processes (particularly the collapse of the Soviet Union as a superpower hostile to Israel) and Middle East processes (the peace accords with Egypt and Jordan and negotiations with other neighboring Arab states and the Palestinians), eliminated or reduced the threat to Israel’s existence and hence the justification for strict censorship almost to 2000. The first decade of the twenty-first century, which saw the second Intifada, the Hamas regime in Gaza, and especially the Iranian nuclear threat and Iran’s threat to destroy the Israeli state, rekindled the old existential fears and changed how Israelis look at censorship. Moving from the sociological framework to the normative theories of the media and political institutions relationship will reveal other explanations to the functions of the military censorship in Israel.

According to the normative theories of media, military censorship is a reflection of government control of society in general and government control of the media in particular. A continuum of three basic models is suggested to describe these relationships: the Totalitarian model, the Continental European democratic model, and the Democratic-American model. The three models differ in the responsibility for censorship assumed by each side: the political institution on the one hand and the media institution on the other hand.

The totalitarian model, which was manifested most clearly by the communist regimes, was typified by the attitude that the media is a government or party
tool (McQuail, 1994). The totalitarian model expropriates responsibility for publicizing information from the media. Every word, print or broadcast, is subject to strict censorship. Censorship is affected through the appointment of hand-picked editors and censors, who are physically present in the editorial offices, who derive their authority and instructions from the political leadership (Darnton, 1991).

The Democratic-American model (or “Social Responsibility” model), at the other end of the continuum, represents the norm that gives the media responsibility for self-censorship. Publishers and editors are required to verify that publications do not contain items that contravene the law, offend moral standards, or jeopardize national security. If they fail to conform to the “Social Responsibility” norms, they may be taken to court and charged if it becomes apparent that a publication was directly responsible for causing damage. Moreover, while the model is basically tailored to the American constitutional system, where civil rights, including freedom of the press, are anchored in the constitution (the First Amendment), it can also be applied to Britain, where civil rights and press freedom are rooted in the sociopolitical culture.

Finally, the Continental European democratic model combines authoritarian-totalitarian remnants at the normative-legal level with modern democratic norms at the practical level. It is a kind of equilibrium between individual and collective rights and, in practice, involves a continuous dialog between the government and the media. This dialog is intended to achieve agreement between the authorities and the media on matters the two sides consider might cause damage to vital social or state interests.

According to the three-model continuum, the relationship between the political (and military) establishment and the media in Israel is located between the Totalitarian-Authoritarian model and the Continental-European model, although the Israeli legal system is based mainly on the English system. In fact, as we see later, a slow but constant movement is discernible away from the Totalitarian pole toward the Continental European model, where the direction of movement is toward the Democratic-American pole. Israel’s Freedom of Information Law (1998), while exempting military-security information, is an example of this. On the contrary, the Press Ordinance, issued by the British Mandate in 1933, that requires the licensing of newspapers, has not yet been rescinded and indicates that the authoritarian inheritance is still alive. In fact, Israel is characterized not only by components of the European model but also by components of the “The Developmental Model,” found in developing countries. According to this model, the media are expected to assist with the
advancement of declared national goals, primarily by unifying the nation and boosting social integration. The processes of privatizing the mass media, in Israel as in other countries, heighten these trends.

CENSORSHIP IN ISRAEL: HISTORICAL ROOTS

The roots of military censorship in Israel go back to the days of the British Mandate. In 1945, the British government passed the Defense (Emergency) Regulations. One of the clauses made it compulsory for all published material – newspapers, periodicals, and books – to be submitted for prior approval by the censor. This strict censorship apparatus arose as a result of growing hostility between Arabs and Jews, the deterioration in the security situation in areas under British Mandate rule, and a desire to quell outbreaks of protest and revolt against the British Mandatory government. When the state of Israel was established, the Defense (Emergency) Regulations were adopted unchanged into the Israeli legal system, and they are still valid.

The press and publishers in Israel had no difficulty agreeing to the censorship implemented immediately after Israel’s declaration of independence. The declaration was followed by the invasion of Arab armies forcing the recently established state to fight a war for survival. It is, therefore, no surprise that within a few days of declaring independence, the editors of the daily newspapers decided unanimously to submit proofs to the censor for prior examination (Goren, 1979). The willing acceptance of the censorship burden stemmed from the media establishment’s recognition that the country’s war situation necessitated a monitoring apparatus to help prevent military and security threats. It can therefore be said that the Israeli press during the independence war and the following years functioned much as the press did in developing countries (“The Developmental Model”).

Quite soon after the war, it became obvious that the censors tended to interpret, in very broad terms, the legal authority given them as well as the goodwill demonstrated by the press. After two incidents in which the censors exercised their authority and closed down newspapers for two to three days, the newspaper editors decided to demand that the “Censorship Law” be revoked and replaced with a new law, separate from the Defense (Emergency) Regulations. When it became apparent that the draft law proposal drawn up by the government did not satisfy the editors, both sides preferred to compromise and agreed that the censor would operate according to mutual agreement (Limor & Nossek, 1995; Nossek & Limor, 2001).
The first agreement was signed in December 1949, a few months after the official end of the War of Independence (Goren, 1979). The agreement, like those that later replaced it, testifies that Israel’s military censorship is not imposed only from the outside, contrary to the image it has. Nevertheless, the legal basis for the censor’s authority (the Defense Regulations) was not revoked. In fact, the first agreement created a clear distinction, which existed for years, between two groups in the mass media institution in Israel. The first group consisted of “trustworthy” media outlets, namely those daily newspapers that by virtue of their agreement with the government enjoyed special monitoring arrangement. The group was represented by the Committee of Daily Hebrew outlets Newspapers Editors.\textsuperscript{3} The second group comprised the rest of the Israeli media, which were not members of the Editors’ Committee and foreign reporters.

The 13 clauses of the first agreement, intended as a practical arrangement replacing the Defense (Emergency) Regulations, defined the relations between the military censor and the daily press in Israel. The most important clause was the one that determined: “censorship does not apply to political matters, commentary and views, unless they contain or if it is possible to obtain from them, security information.” This agreement established two important principles. First, it prevented the censor from using the authority granted to him by the law to exclusively and without reservation the ultimate power and right to ban publications (or parts of them). Second, the censor relinquished the power to penalize. At the same time, the newspapers relinquished their right to appeal to the courts over censorship disputes. Another important principle was the censor’s concession on the requirement that all publications must be submitted for prior examination. Instead, a definitive list of subjects was drawn up. The list specified certain issues and subjects to be scrutinized and approved before publication.

Under the agreement, the \textit{Va’adat Hashloshah} (Committee of Three) was set up, comprising a public representative as committee chair, an Editors’ Committee representative, and a representative from the army. The committee acts as a court of arbitration. On the one hand, it handles appeals from newspapers against the censor’s decisions, and, on the other hand, it acts as a judicial tribunal and decides cases against newspapers that contravened censorship instructions and decisions.

The censors’ implementation of the new agreement produced a constant string of newspaper complaints until extended negotiations were agreed that ended finally, in 1951, with the agreement’s reformulation. One important change in the new agreement cancelled the Chief of Staff’s prerogative to
overrule decisions by the Committee of Three, if they were not agreed by all three participants unanimously.

The agreement remained valid for 15 years and was then replaced by a new agreement with only minimal changes and amendments, mostly procedural. The 1966 agreement was in force for 23 years. In 1989, an important amendment was added, limiting the censor’s authority to disqualify material only in cases of “tangible” and “clear and present danger to national security.” The amendment followed a High Court of Justice decision after an appeal by a local newspaper (see later discussion for the Supreme Court involvement).

The present agreement, that was signed in 1996, makes significant changes: that the public representative chairing the Committee of Three must be a jurist (retired judge or lawyer); the agreement would be applied henceforth to all media – even those not members of the editor’s committee provided they are willing to join; and finally, it allows the media to appeal the censor’s decisions to the High Court of Justice, even if the Committee of Three has rejected a previous appeal.

To sum up, it should be emphasized that the military censorship in Israel has at least four unique characteristics:

(a) Its existence is anchored in law. However, the written law has been “frozen” and has been replaced by a voluntary arrangement between the military authorities and the media.

(b) Despite the fact that the parties to the voluntary agreement are the military authorities and the editor’s committee, this agreement, and not the law, is also applied to other media organizations, although they are not a formal party to it, if they choose to join it.

(c) Although the law grants the censor, the power to examine all publications before they are published (or broadcast), in practice, the law is not carried out to the letter. In fact, the censor only requires publications dealing with military and security matters to be submitted for prior examination.

(d) The censor’s decisions are subject to judicial control. Over the years, the Supreme Court (acting as a High Court of Justice) has added its own liberal interpretations on the subject of censorship.

In effect, the Israeli Supreme Court delimited and greatly curtailed the censor’s powers when it passed its 1989 precedential ruling that the censor may only prevent publication if there is “tangible” and “clear and present danger” (Supreme Court 680/88). This doctrinal ruling generated new, far
more flexible censorship guidelines and effectively established a new equilibrium between two seemingly contradictory values – freedom of expression and national security. After this ruling, an amendment was added to the agreement between the Censor and the press whereby the Censor agreed to adhere to the spirit of the ruling. It is noteworthy that the Supreme Court did not delve into the fact that the law was circumvented by the agreement between the Censor and the press and thus awarded it post factum endorsement.

Despite the fact that the compromise agreement largely neutralizes the intimidating power of the censor, it also reinforces the claim that the media are part of the sociopolitical establishment or, at least, are its partners. The main claim is that the mere existence of an agreement between the media and the political institution (including the army) limits the independence of the former (Caspi & Limor, 1992), weakens its power, and undermines the adversarial relationship between the two, which, according to the democratic approach, is essential.

HOW DOES MILITARY CENSORSHIP WORK IN ISRAEL?

The chief military censor is an officer of colonel or brigadier general rank with two appointments. On one hand, censors are a military unit commander (the Israeli Military Censor) in the IDF Military Intelligence and a direct appointee of the Minister of Defence. In practice, authority stems directly from the law, and therefore, censors have vast leverage. Indeed, almost all chief censors have acted so independently that the military authorities attempted to replace them. It is noteworthy that on one occasion, the newspaper editors came out in support of the chief censor by writing editorials insisting that he remain in office.

Ostensibly, all material published or broadcast on the electronic media requires prior permission from the censor. This is also the case for information sent abroad by foreign correspondents in Israel. In practice, the newspapers and broadcast media only submit items for prior inspection when they are related to topics specified in advance by the censor. This list of topics is distributed by the censor to all media organizations and periodically updated. The topics in the list include, among other, movement of military forces, details of army units, arms and military equipment development and acquisition, and so on.
Although most newspapers and periodicals in Israel are not members of the Editors’ Committee and did not sign the agreement, the censor in practice applies the agreement’s principles to them as well. It is noteworthy that the censor tries to minimize the use of sanctions and usually the chief censor or his representative suffices with a warning letter to an editor who contravenes the censorship instructions.

Thus, the Israeli censorship is basically fairly similar to the retroactive censorship found in many democratic countries. In other words, the government does not demand the inspection of material before publication (which is the case in Israel for most material) but reserves the right to punish the media after publication – if the publication is found to contain information that might threaten national security.

As distinct from totalitarian regimes where no appeal against the censor’s decisions is possible, the Israeli censor’s decisions are not final. Often, the decision is a starting point for negotiations between the censor and the editor and quite regularly a compromise is reached leading to publication of an agreed version. Moreover, if the editor is not convinced by the censor, he can still appeal to the Committee of Three, which will convene within 24 hours to hear both sides and rule on the censor’s decision. A wrong decision not to submit an item that is on the list or publish an item that was banned by the censor or by an editor is likely to lead the censor to appeal to the “Committee of Three” and even to punishing the media outlet who made the error in judgment. The censorship agreement removed the authority to penalize from the censor and placed it with the Committee of Three. Between 1949 and 1990, the censor brought 135 cases against newspapers before the committee. All cases were upheld in favor of the censor. This is hardly surprising as all these claims came after the newspapers had contravened censorship and published material without permission or against the censor’s orders (Nossek & Limor, 2002), after harm to national security as a result of publishing banned information was proved to the committee.

In terms of the number of appeals against censorship decisions brought by the media to the Committee of Three, during the 1990s, the number of appeals rose and the committee rejected a higher percentage of appeals. In the period referred to above, 1949–1990, the committee received 64 appeals of which 40 were upheld, compared with 19 appeals and only 8 upheld from 1991 to 1998 (Nossek & Limor, 2002).

Newspaper penalties imposed by the Committee of Three range from a comment or reprimand to a conditional or actual monetary fine. The most severe punishment ever imposed by the committee was to shut a newspaper down for one day; however, since 1972, the committee has not closed down
a newspaper. In most cases, fines are less than several hundred or several thousand Israeli Shekels (up to 1,000 US dollar), which is donated to nonprofit organizations.4

As mentioned earlier, the Committee of Three also acts as a court, which hears appeals by newspapers against the censor’s decisions to disqualify articles, news, or information. Examination of media appeal reveals that most appeals were fully or partially upheld. Partially upheld appeals show some kind of compromise was reached.

ISRAELI MILITARY CENSORSHIP IN THE TWENTY-FIRST CENTURY

Four key events took place during the first decade of the twenty-first century, which affected the conduct and shape of Israeli censorship. These events have a common denominator – they teach us that modern military censorship in democratic countries is not only an instrument for suppressing the publication of sensitive security-related information but also forms part of a wider and more general picture involving the relationship of the state, and the military as part of it, with the public and the media. The four events are as follows:

- The Second Intifada (starting 2000 and peaking in 2002–2003): The Intifada had a sobering effect on the Israeli public and dispelled the hopes of the 1993 Oslo Accords peace process between the Israel and the Palestinians. After signing the accords, many believed that the country would not longer be in a state of war as it had been since 1948 and could cut back its army and suspend military censorship. The terrorism waves that rolled across the country in 1996–1997 following Rabin’s assassination, and more intensively during the second Intifada, proved the security threat was alive and kicking and that circumstances still demanded military censorship to protect Israel’s vital security interests.

- Disengagement from Gaza – Summer 2005: “Disengagement” was the Israeli government’s name for the unilateral withdrawal plan executed in the summer of 2005 when all settlements and military bases in the Gaza Strip were dismantled and withdrawn. Although the disengagement supposedly was a military operation, it in fact had two chiefs: one responsible for the operative side of the disengagement and the other responsible for its public relations. The army’s public relations apparatus under IDF spokesperson Brigadier
General Miri Regev functioned as a well-oiled public relations system – providing the media with abundant information, maximum access, and practically making journalists and television crews an integral part of the operation. With hindsight, this marks the evolution of a new style of relationship between the army and defence establishment and the media. This new formula was marked by a high degree of openness, which among other things meant considerably more flexibility – albeit unofficially – in the military censor’s work (Limor & Nossek, 2007).

- Second Lebanon War (Summer, 2006): War ensued after Hezbollah rocketed civilian Israeli settlements, attacked an IDF patrol, and abducting two soldiers. Israel’s response was a massive operation involving penetration of land forces into Lebanese territory.

The new style of media relations could also be seen straight after the Second Lebanon War erupted. The IDF spokesperson took a similar open policy toward the media: journalists were allowed considerable access to ground forces deployment zones, with some even reporting troop movement live on television and radio. The policy of openness and even transparency that chiefly characterizes civilian bodies also drew fire against the IDF spokesperson for doing “the army and Chief of Staff’s public relations” (Weiman, 2007, p. 26). And if public relations is the name of the game, in other words generating a positive image for the Israeli public with maximal media assistance, it is only natural that the Military Censor’s freedom to act on a pure security-related basis was diminished.

The in-depth war reporting drew waves of criticism from all sectors of the public. The strong criticism of excess media freedom shows us that the censor had not done its work properly. People felt for, example, that direct reporting that spelled out where the Katyushas were landing helped the enemy. Still, whereas although the military censor saw no reason to censor information regarding the rocket landing sites – mainly because the enemy could not accurately direct its missiles – the media took it upon itself to desist from these reports in response to public pressure. This was attested by journalists to the Press Council public committee to examine the media’s performance during the war.5

The army’s handling of the Second Lebanon War was also the focus of a public investigative committee established to investigate the war, which was chaired by a retired judge. The committee also examined the military censor’s actions and found for example that the censor sufficed with providing a list of subjects demanding prior approval and control, and with clarifying the law on this point, leaving it up to the journalists’
discretion to determine what to do. In that sense, the censor behaved much like democratic governments in that they both have legal instruments for prosecuting journalists and media organizations for publishing information endangering the national security but usually leave it to the media to act responsively while the governments refrain from using their legal power on the media.

- Operation Cast Lead, Gaza Strip, winter, 2007–2008: This large-scale military assault on the Hamas military infrastructure in the Gaza Strip was launched after thousands of rockets and mortars were fired on Israeli settlements from Gaza. As a result of the lessons learned from criticism of the media and censor’s performance in the Second Lebanon War, the whole area was closed off to journalists, and very stringent censorship was imposed on all military information issuing from the Strip during the operation. The decision left all the coverage of the fighting to the local or Arab media such as the Arab television network Al Jazeera, and there was no response from the Israeli army or Israeli government spokespeople.

The Second Lebanon War turned the spotlight on an old argument regarding the military censor’s role, which was previously conducted in much lower tones. The war prompted fierce debates as to whether the military censor should simply suppress information involving a “clear and present danger to national security” as the Supreme Court had ruled, or whether it should suppress the publication of numerous other types of information, which the army, the security establishment, the politicians, and even sections of the public believed could or had threatened national security.

In fact, the military censor repeatedly proved it had independent status, even within the army, even though it was formally an army unit in every sense. The stress on independence and the censor’s strict adherence to the Supreme Court ruling began leading to a clash between the defence establishment (army and security services) and the military censor. When the former sought to suppress publications, the censor clarified its opposition and explained that if the defence body proceeded, it may face media appeals to the Supreme Court.

This new reality, which can only arise in a modern democracy, contains at least two fascinating implications. First, the defence establishment and its offshoots began to bypass the military censor and disregard its role of suppressing undesirable publications. Instead, they appealed to the courts for judicial orders banning publications. The Israeli experience, and perhaps that of other countries too, teaches us that judges (usually the appeals are to
lower court judges) readily bow to appeals from the defence establishment and issue the orders.

The second implication is that the media’s appeal against the judicial order to the courts in fact cites the military censor’s refusal to suppress publication of a given piece of information due to the lack of threat to national security.6

DISCUSSION AND CONCLUSIONS

The case of Israel’s military censor teaches us that the question of censorship is a complicated subject in modern democracies and not simply a rigid apparatus that obeys government orders to the letter and suppresses the freedom of expression and of the press. In theory, one would imagine a basic contradiction between censorship and democracy. However, we can see this as a classic question of a struggle between two basic rights: the right of the individual and the state to security and self-protection on the one hand and the right to freedom of expression (including freedom of information and freedom of the press) on the other.

Thus, it is understandable that when in crisis democracies accept that the defense of citizens and the national security take precedence over freedom of information. If an external threat appears, the media adapts itself while imposing censorship on itself (or accepting government censorship guidelines), and criticism, like the free flow of information, is suspended until the external threat passes (Nossek, 2004). And just as there is consensus that censorship itself is needed, there is also an apparent consensus even in democracies with longstanding traditions of freedom of the press, freedom of information, and media criticism of the state, that military-security censorship is necessary to protect the nation against outside enemies. Israel’s singularity in contrast to other western democracies may be that the country and public at large regards the belligerent relations with neighboring countries, the threats to its existence, and terrorist activity as a state of emergency demanding defensive action – including the use of military censorship, which although temporarily undermining freedom of the press and freedom of information is essential for assuring the country’s security and the lives of its citizens. On the contrary, we cannot ignore the fact that advocates who seek to rid Israel of its military censorship, in its present form at least, fear its exploitation as an instrument of political censorship, which characterizes nondemocratic countries or societies in transition from democratic to nondemocratic rule (Nossek & Rinnawi, 2003).
The Israeli model is unique in so far as censorship is applied with consent of both the government (including the army) and the media. Nevertheless, the government has legal tools such as the Emergency Defense Regulations that allow Draconian handling of the media to suppress publications and punish media outlets that flout the censor. That said, the government would rather take the route of communication and negotiation and censorship with media consent. For its part, the media also chooses consensual agreement because it means they are not responsible for publishing adverse material to the national security and affords them immunity from prosecution because they only publish information on security-related matters that is approved by the censor. Having access to the Supreme Court also gives them confidence that they can appeal the censor’s decisions at any time.

As Israel continues to stabilize its status as democracy – in fact the only democracy in the Middle East – there is growing public consensus over its continuing need for military censorship. Media articles, Internet talkbacks, and radio debates show that many in the public think that as long as Israel’s survival is threatened, military censorship to suppress material that threatens the nation’s security and endangers the lives of its citizens is both necessary and justified.

For its part, the media often finds itself in a cleft stick where, on the one hand, it wishes to function as a free press without controls or censorship, while on the other, it responds to the public’s murmurings, which often openly shows its desire “not to know” and not to be exposed to information that could threaten the nation’s security. The media operates between these poles. For example, in the Second Lebanon War, it bowed to public disapproval and did not publish the location of sites hit by Hezbollah rockets – although the censor did not ban such information – because the public exhibited growing anxiety that this information could helped the enemy. On the contrary, in the name of freedom of information and of the press, the media sometimes fights to lift publication bans – both bans imposed by the censor and judicial orders.

The Israeli paradox is that, fairly regularly, the military censor assists the Israeli media in its battle for freedom of information and freedom of the press. The censor’s refusal to suppress an item, which is nevertheless subjected to a judicial order by the courts, can be a tool for getting the order lifted. In other words, sometimes the military censor maintains the freedom of the press, and its refusal to censor items – while the courts do – is a kind of “kosher stamp” that helps in the media’s battle to preserve its independence and the freedom of information.
NOTES

1. The Israel Press Council is perceived as the highest authority in the Israeli media arena (Caspi & Limor, 1998).

2. Clause 87 (1) of the Regulations states that “The censor is entitled, in general and in particular, to order the banning of the publication of material, the publication of which, will, or is likely to, in his opinion, harm the defense of Israel or the well-being of the public or public order.” The following clause, 88 (1), states, “The censor is entitled to order the banning of the importing and exporting, the printing and publishing, of every publication ... whose importation or exportation, printing or publication, were, or are likely to be, or to made to, cause damage, in his opinion, to the defense of Israel, to the well-being of the public or to public order.” This clause also allows the censor to operate a control apparatus on information sent abroad from Israel by foreign correspondents. There was no right of appeal against the censor’s decisions or the penalties imposed.

3. The Editors’ Committee is, in fact, the representative body of the daily national press in Israel that had already begun its activities during the period of British Mandate. For many years, it functioned as a kind of self-censorship of the press, after government leaders shared state secrets with them in return for the promise of nonpublication. See also Goren (1979).

4. On the contrary, the censor issued an order to close a newspaper that was not a member of the Editors’ Committee in 1984, in the case of bus number 300, when the evening newspaper Hadashot published the story of the terrorists killed by the security forces after they were captured in the assault to rescue the hostages taken by them in a bus number 300. This was the last time the censor used his authority on a Hebrew newspaper because it was not part of the agreement. Later on, the newspaper (which ceased since to be published) joined the Editors’ Committee as well as the agreement.

5. As a result of the public criticism of the media in the Second Lebanon War, the Israeli Press Council commissioned a special public committee to examine the press’s performance. As a result of its recommendations, the Rules of Professional Ethics of Journalism was amended and the following paragraph added, called “Ethnics in Wartime,” which among other things states that the media and journalists must have “approval from the Military Censor to publish information where necessary,” that the media must provide “fair, reliable, and equal coverage of what is happening in the rear at the same time as reporting what is happening in the front lines”; and that it must “respect human dignity and the privacy of combat victims,” refrain from showing close-ups of the wounded and dead and not report directly or indirectly about the dead and wounded before notification has been given to their families.” see Paragraph 26 of the Israeli Press Council Rule of Professional Ethics of Journalism, the amendment was ratified in June 2007.

6. One of the best examples of the censor being bypassed by the defense authorities took place in 2010, following the affair when a former soldier stole hundreds of classified documents before completing her military service and subsequently handed them over to a journalist. The defense authorities turned to the courts for a gag order thus bypassing the military censor. The newspaper that published part of the documents claimed in court that no harm has been done to the state security since the story was approved by the censor before publication.
7. Such as the Iranian president’s cries for Israel’s destruction have just reinforced the sense of existential threat.

REFERENCES


Weiman, G. (2007). *The public criticism of the media in the coverage of the war in Lebanon 2006*. Tel Aviv: Herzog Institute, Tel Aviv University.
Hillel Nossek, Ph.D., is professor of communication at the School of Media Studies of the College of Management Academic Studies, Israel. From 2004 until 2009, he was academic director of the college research authority. He is past president of the Israel Communication Association (1999–2003). He is currently (since 2002) co-head (with Friedrich Krotz from Germany) of the Mediated Communication, Public Opinion & Society Section of IAMCR. His book publications include *Readers’ Voices: Literacy and Reading in the Multi-Media Environment in Israel* (2007; co-authored with Hanna Adoni), and he edited *Israel at the Beginning of the Twenty-first Century: Society, Law, Economics, and Communication* (2002), and co-edited *Media and Political Violence* (2007; with Annabelle Sreberny and Prasun Sonwalkar).

Yehiel Limor, Ph.D., past president of the Israel Communication Association, is an emeritus professor and teaches at the Department of Communication in Tel-Aviv University, Israel. Before joining the academia, he served for many years as a senior correspondent and editor for Israeli newspapers and radio. His main fields of interest and research are media history, media ethics, and journalism. Among his publications are the following books: *The Local and Regional Radio in Israel* (2011, with Z. Israeli); *Lexicon of Communication and Media Studies* (2007, with H. Adoni and R. Mann); *The Pirate Radio in Israel* (2007); *The In/Outsiders: Mass Media in Israel* (1998, with D. Caspi); *Journalism: Reporting, Writing and Editing* (1997, with R. Mann); and *The Mediators: Mass Media in Israel 1948–1990* (1992, with D. Caspi).