

# IFLA/FAIFE World Report: Libraries and Intellectual Freedom



## Israel

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Israel is a parliamentary democracy and Israeli citizens are free to change their government democratically when elections for Knesset are held every four years.

Israel gained independence in 1948, following three decades of British Mandate rule. Upon independence, Israel established its judicial system on the existing court system set up by the British and adopted its existing legal code. Although many laws have since been amended or in some cases, altered, the dominant influence, especially in areas that pertain to intellectual liberties, remain that of the British legal code. Israel has no formal constitution, although a series of Basic Laws have the force of constitutional principles and are enacted with the vision of ultimately becoming the country's constitution.

Israel's continued political and military conflict with its bordering countries has largely shaped collective and individual concepts of security and freedom. Although free to criticize the country, citizens have traditionally been sympathetic to the government's enhanced requirements for secrecy and censorship. Newspapers and magazine articles on security matters are subject to review of a military censor, though the scope of permissible reporting is expanding. The culture of secrecy is prevalent in all branches and levels of government, and requests for official information traditionally encountered resistance. In recent years, following some changes in legislation, Israel is beginning to make small strides towards open government practices.

### Legislation

Over the past 20 years, Israel began to develop a *de facto* national information policy. The foundations were laid in 1981, with the passage of the Privacy Protection Law, but it wasn't until the 1990s that Israeli legislators and policy makers applied themselves to the task of constructing a more comprehensive approach to information policy.

The past decade has seen some milestones in the formation of Israel's information policy. In 1996 extensive amendments were made to the Privacy Protection Law, especially in the chapters pertaining to database protection and direct mailing. Next, the Government sub-committee for Computerization and Information published report about information policy, which contained recommendations in most information policy areas. This is the first report regarding the topic to be produced by the Israeli government. Almost at the same time, the Israeli Knesset passed the first Freedom of Information Law, and finally, in December 1999, the Knesset passed an amended Intellectual Property Law, which revised and updated of 1911 Copyright Ordinance, signed by King Edward, that had been in force in Israel since the days of the British Mandate, and adjusted it to comply with international standards.

### Freedom of Information Law

On May 19, 1998 the Freedom of Information Law was accepted unanimously by all Knesset members present in the plenary session, and was enacted a year later, in May 31, 1999. Although it was much anticipated by journalists and civil rights groups, government authorities were both weary of the law and unprepared for it. Soon before the law was to go into effect, various public sectors began sending requests to the government for temporary release or postponement from the law, claiming that they are unprepared to fulfill the law for lack of instruction or training. Several exemptions were indeed given, among them to the Israeli army, but these are now beginning to gradually expire. Data that has been gathered thus far shows that in the eighteen months that have passed since the law went into effect, the number requests for information under the law has been small. This is due most likely to the minimal effort on behalf of the government to make the law known to people, and to lack of public awareness to the concept of freedom of information.

Since the Freedom of Information Law went into effect there has been some judicial activity regarding the law, mostly in the district courts. The law has thus far proven sound enough to withstand challenges in court. Cases challenging freedom of information that were heard since the law passed constitute a victory for freedom of information in Israel. Cases heard recently before the Tel Aviv district court lay a sound foundation for a narrow interpretation of the exemptions provided by the Freedom of Information Law. The court decisions also widened the scope of documents that will be made

<b>Population:</b>	5,664,000 (1996)
<b>GNP per capita:</b>	\$ 15,870 (1996)
<b>Government / Constitution:</b>	Republic
<b>Main languages:</b>	Hebrew and Arabic
<b>Main religions:</b>	Judaism, Islam and Christianity
<b>Literacy:</b>	95 % (1995)
<b>% of population online:</b>	17,1 (July 2000)

available to the public, which now include documents held by private corporations acting on behalf of government. The rulings offer a narrow interpretation of the Law. A recent ruling to this effect was recently appealed by the Tax Authority before the Supreme Court. Should the court decide to hear the case, this will be the first Supreme Court ruling regarding freedom of information under the new law.

## **Legal Constraints**

Although the Freedom of Information Law is expected to have an increasingly important role in promoting free information practices in Israel, other legal barriers exist that hinder intellectual freedom rights in Israel. Of these, the two barriers most significant in obstructing freedom of information are various measures taken in the name of state security and state copyright.

The Israeli legal system has set a strong legal foundation to guarantee content control of the press and other news media. Extreme security measures were taken by the Administrative branch to assure national security in a reality where the well-being, and at times the very existence of the country, were threatened. Censorship powers are awarded under the 1945 Defense (Emergency) Regulations. This legislation gives the Military Censor wide discretionary powers to shut down a newspaper that publishes articles that are considered by the censor to be endangering national security. The Censor is also empowered to punish a newspaper, to stop the printing of a newspaper, or to confiscate the printing machines that belong to the newspaper.

Oddly enough, the powers granted to the Military Censor, are rarely exercised, while censorship continues to exist. This situation is made possible by the Censorship Agreement between the editors of major newspapers, and the Censor. The first Censorship Agreement was signed by the Editor's Committee of the daily newspapers, and the Israeli Defense Forces, in December 1949. According to the agreement censorship would be based on full cooperation between the military authorities and the newspapers in order to prevent leakage of security related information. At the heart of these agreements, which are constantly altered and amended according to circumstances, is a mutual understanding between the Executive and newspapers editors about refraining from publication. The Editors' Committee is convened and told of certain events, and then asked to refrain from publishing information regarding these events until they receive a green light from the censor.

The Censorship Agreement have been subject to many changes since the first agreement was signed in 1949, to the most recent one, signed in May 1996. In addition to news media, theatrical plays and motion pictures are also subject to reviews of a censoring committee. In reality, censorship is rarely imposed on plays and movies but the prospect of such censorship does exist. Recently, when control of the Council for Review of Theatrical Plays and Motion Pictures moved from the Ministry of Interior to the Ministry of Culture, the minister announced that the ministry will consider abolishing the Council, recognizing it to no longer be effective.

Israel inherited the British tradition of Crown copyright, which it adjusted to State copyright, upon gaining independence in 1948. State copyright was awarded to all publications of the Israeli government under Article 18 of the 1911 Copyright Law. State copyright awards the government with ownership rights to its publications. In spite of numerous recommendations to cancel or at least restrict State copyright, State copyright still exists in Israel for both print and electronic formats. All Israeli government websites carry copyright warnings. The issue of State copyright was also addressed in a report of the Subcommittee for Computerized Communication and Information, better known as the Eitan Report. Section 7(1) of the Eitan Report recommends establishing government databases for the dissemination of information, which will revoke State copyright.

## **Libraries and Freedom of Information**

In the past years we have been witness to public library funding dwindle to such a degree that the very continuance of Israeli public libraries is threatened. Public libraries are rapidly losing their ability to provide service of any kind. In 1975 the Ministry of Education supported 50 percent of libraries' budgets, while in 1999 the support dropped to 9 percent. It is not very likely that while struggling with their very existence public libraries will have the time, resources or state of mind to confront their role as a democratic agent in society, trusted with the role of providing unlimited access to all types of information to the entire population.

Public libraries in Israel play virtually no role in promoting democratic values in society, and they have failed miserably in taking responsibility for disseminating government information and creating an informed citizenry. There was never any awareness of this responsibility in the library community. None of the library schools train librarians in providing access to government information.

Although there is no official policy of censorship in public libraries, the findings of a recent study in high school libraries allow us to speculate regarding public libraries. This recent study indicated that not only does a great amount of self-imposed censorship occur in acquisitions and selection of new materials, but that librarians perceive this as positive and view biased selection as part of their obligations towards their public. While the [Israeli Center for Libraries' code of ethics](#) does promote intellectual freedom, Israeli library associations have not taken a public stand on recent issues of concern to the library community, such as filtering, the digital divide or widespread access to information.