The Routinization of Nuclear Ambiguity

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Birth of the Policy of Nuclear Ambiguity

Much has been written about the importance of the nuclear ambiguity policy. In the early 1960s, following a heated dispute at its top political echelons, Israel adopted a policy whereby it would continue to develop its nuclear program, but refrain from taking measures that would normally define it as a nuclear state, i.e., does not conduct nuclear testing. This has been Israel's policy of nuclear ambiguity – encapsulated by the familiar pronouncement that Israel will not be the first to introduce a nuclear program into the region. This policy has played a significant role, and indeed, the region has not been nuclearized and the nuclear dimension has played a negligible role in regional, security, and political history.

The policy was a compromise between two opposing schools of thought regarding the repercussions of nuclear capability in the region: the conventional school of thought versus the nuclear school. The conventional school, according to the literature and foreign sources, opposed intensive nuclear development, but after the decision on the nuclear project was nonetheless taken, supported building the necessary infrastructure (with an option of implementation) so that if other countries in the region embarked on this nuclear route, Israel could be a few steps ahead. In contrast, the nuclear school urged adoption of a defense concept based on explicit nuclear deterrence (with an option of use). Because of this difference of approach among policymakers who had to reach some modus vivendi given the various developments in the nuclear program, the policy of nuclear ambiguity was adopted as a compromise and became one of the cornerstones of Israeli policy.[1] Despite various attempts to overturn it, this policy has remained steadfast for more than 50 years.

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The arguments by the opponents of the use of the nuclear option concerned the repercussions of a nuclear program and explicit nuclear deterrence on the character of Israeli society and democracy. Yigal Allon captured this sentiment when he warned against a reality in which there is a nuclear reactor (in Dimona) that has a country (Israel), and not a country that has a reactor. The documentation shows that issues such as the concern that parliamentary supervision would infringe on the security and nuclear fields, the concern about excessive secrecy of a nuclear project underway behind the scenes, the circumventing of state institutions, and the transfer of budgets through unauthorized channels played a part in the opposition to nuclear development and the adoption of a strategy of explicit deterrence.

It appears that after nearly 60 years of a nuclear program, Allon's concerns did not materialize. The policy of nuclear ambiguity has undoubtedly contributed to this, since another outcome of this policy is that the nuclear program does not have a "presence" in the public experience and is not perceived as a solution to "security" problems. Nevertheless, nuclear ambiguity and its decades-long institutionalization have led to a situation whereby even its proponents today (a majority of the political establishment) do not periodically review the various desired and undesired outcomes of the policy.

Criticizing the Policy without Fracturing It: Three Categories of Questions

A public discussion of the Israeli nuclear issue is not tantamount to undermining the nuclear ambiguity policy. The main objectives of the policy are to weaken neighboring countries' motivations for nuclearization on the one hand, and to strive to sustain the global agenda that supports limiting nuclear proliferation on the other hand. The logic underlying the nuclear ambiguity policy is that there are political disputes in various countries – including Israel – about the advantages and drawbacks of a nuclear capability. Indeed, were it not for the dispute at the top political echelons, there would be little purpose in the nuclear ambiguity policy. In other words, if the Egyptian or Saudi leaderships were of like mind about the value of a nuclear program, they would not need motivation from Israel.

Does every discussion about the nuclear issue undermine the policy of nuclear ambiguity? Following the distinctions made by Professor Ruth Gavison, three categories of questions should be posed: the first concerns

factual questions, such as, does Israel have nuclear weapons, and in what quantity? Does it have hydrogen bombs? What are the rules guiding decision makers in relation to using such weapons? Where are the weapons stored? and so on. The second category concerns normative questions, led by: does Israel need to have a nuclear capability? The third category, of a different nature, concerns the issues of obfuscation and secrecy on the part of the state vis-à-vis the first two categories of questions.[2]

The history of more than half a century proves that both writing about the Israeli nuclear issue and decision makers' responses to questions of the second category about nuclear development have not increased neighboring countries' motivations to "go nuclear." There are no significant disagreements about this among researchers and commentators.[3] In fact, a discussion among researchers of Israeli nuclear strategy and Israel's nuclear capability (under the first category of questions) likewise does not influence the political considerations of neighboring countries.

A review of the public responses from the top political echelons in Arab countries finds that it is not any particular discussion that brings the nuclear genie out of the bottle, but rather the identity and credibility of the speaker. In other words, when information about Israel's nuclear capability comes from a senior political player or from any person who played some role in the nuclear project (e.g., Mordechai Vanunu), then it makes an impact.[4] The faux pas by Prime Minister Ehud Olmert in December 2006 during an interview with a German television channel, namely, the slip that Israel has nuclear capabilities, triggered a tempest in the Israeli political establishment and also led to a flood of reactions in the global media.[5] It goes without saying that no research study attains such a buzz in the media.

The policy of nuclear ambiguity is a "diplomatic fiction," because the world has been aware of Israel's capabilities for many years. Nevertheless, this fiction has "diplomatic weight"; i.e., despite the overt information about Israel's nuclear capability, the policy of nuclear ambiguity serves those who strive to reduce nuclear proliferation and therefore has substantive political value.[6]

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However, the logic in the nuclear ambiguity policy – which is still valid – does not obviate the possibility of criticism of the Israeli nuclear program and its repercussions on domestic and

foreign policy. In fact, a review of Israeli political history shows that not infrequently "nuclear" issues have been publicly debated by decision makers (in the realms of the economy, environment, civilian matters, parliamentary oversight, and others), and the policy of nuclear ambiguity was not adversely affected. Nevertheless, for some years, questions about nuclear issues that are addressed to representatives of the political and bureaucratic establishments trigger a reflex reaction both internally and externally. Externally, they declare the need for ambiguous responses for reasons of state security, and therefore reject any discussion of the subject; internally, there has been a collective "turning of a blind eye" by the governmental institutions in relation to many "nuclear" topics.

It seems, therefore, that the policy of nuclear ambiguity and its outcomes may be discussed and criticized without concern and, indeed, with the intention of sustaining it.

The Routinization of the Policy of Nuclear Ambiguity

Within the political arena, there has been a process of routinization and formalization of political activities. The institutionalization of a political decision means that the decision must be converted into a set of rules and orders that direct the actions of the bureaucrats. Over time, the routinization is affected by various constraints so that the implemented policy diverges from the objectives that framed the initial political decision. Thus while one can talk about the routinization of the policy of nuclear ambiguity, it is far more complicated, since it did not take the form of defined mandatory and prohibitory injunctions that guide the bureaucratic and political establishment. In fact, to the best of our knowledge, the decision about the nuclear ambiguity policy was taken at the highest political echelon without protocols and according to the political balance of powers. Yet the political echelon's considerations that existed in the past and led to the adoption of the nuclear ambiguity policy do not exist today. As evidenced by various statements, there were those who thought that the nuclear ambiguity policy should be revised; however, they were already entrenched in the reality of this policy, and it was this reality that they sought to change.

One of the main objectives of the nuclear ambiguity policy (from the perspective of opponents of explicit deterrence) was that Israel's nuclear program not lead to a blatant nuclear security orientation – a kind of autonomous nuclear "secret kingdom" inside Israel. Nevertheless, the routinization of the nuclear ambiguity policy created failures and led to

decision makers turning a blind eye, which enabled them and the "nuclear bureaucracy" (the Israel Atomic Energy Commission – IAEC, the Director of Security of the Defense Establishment – DSDE, or "Malmab," in its Hebrew acronym, and the military censor) to operate too freely. They were able to interpret and institutionalize the unwritten orders of the nuclear ambiguity policy in a manner they considered correct (or, according to some of its critics, that maintained their status), and more important, to extend the ambiguity, the veil of obfuscation, to areas that far exceed the factual security questions.

Consequently, the legitimate secrecy about questions of the first category has expanded to encompass issues under the second and third categories and include any discussion of the nuclear issue. The routinization has led to various measures being taken that quash public and parliamentary discussions (that are unrelated to security issues) that are vital to the existence of a democracy and that materially infringe on freedom of speech. Both the military censor and the DSDE wielded their power (i.e., authority and scare tactics) and prevented the holding of informative discussions of various issues relating to nuclear energy: from various military capabilities to civil and research applications.

Nuclear Ambiguity Policy, Democracy, and Freedom of Speech

Historically, the policy of nuclear ambiguity was adopted concurrent with the initial phases of the nuclear program, and since then, not only has the program become more extensive, but the decision making processes have become institutionalized and more complex. Despite the fact that the nature of the supervision over the nuclear program bothered some political figures, it appears that they thought that the policy of nuclear ambiguity would help muzzle civil criticism.

During the first two decades following the establishment of the state, some of the proponents of the nuclear project were ready to breach democratic and governmental norms, while opponents expressed concern over the creation of a "nuclear monarchy" – i.e., over negative repercussions on the young Israeli democracy.[7] The latter argued – and global historic experience corroborates the argument – that the establishment of a nuclear project leads to excessive secrecy and to the circumventing of proper governance. Furthermore, the critics were (and are) concerned that any discussion of controversial "nuclear" decisions with numerous implications might be barred under the pretext of "security considerations."

The political compromise, whereby it was agreed that Israel will not become a nuclear state, was made contingent upon excluding the nuclear topic from the public domain. Nevertheless, while there were indeed objective grounds for censoring the discussion of factual issues falling under the first category of questions, some of the decision makers were not concerned by criticism of anti-democratic elements accompanying the program. In fact, not only did they not see any danger in discussing the nuclear program (i.e., questions not falling under the first category) – but rather, they even supported holding a lively discussion.

A look at nuclear programs of other countries reveals that secrecy is built into them. Nevertheless, discussion and public debate of issues that do not jeopardize state security must be distinguished from all other issues. Clearly, nuclear ambiguity will not be compromised if a discussion is held on the issue of nuclear waste, the enormous budgets allocated to nuclear development, the existence of institutions and organizations mandated to supervise the safeguarding of the secrets, the health hazards that the reactor in Dimona poses to the reactor's personnel and to residents in its vicinity, and more. In the United States and in Britain, which established enormous nuclear complexes, there have been heated discussions of these and other issues for years, and they are regulated under legislation and in overt agreements. In Israel, both the institutions responsible for silencing the discussion (the DSDE, the military censor) and the self-censorship by members of the Knesset, ministers, and "nuclear bureaucrats" have resulted in the discussion of any nuclear issue being considered as jeopardizing state security.[8]

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These paragraphs are seemingly paradoxical: on the one hand, they affirm the importance of the policy of nuclear ambiguity, while, on the other hand, they endorse a discussion of particular "nuclear" aspects. However, incorporated in this pseudo-paradox are one mistake that has become axiomatic and one problem. It is a mistake to think that the policy of nuclear ambiguity must necessarily silence all discussion of the nuclear issue, and proponents of the policy among the top echelons never believed this should be the case. For example, we could decide that factual information about nuclear capabilities and various

nuclear developments will not be open for discussion; while a discussion of other aspects, such as oversight, decision making processes, the impact on environmental quality, and the cost of the project will be open for discussion.

The problem, which is no less important, concerns Israeli democracy. Much has been written and said about the importance of oversight and public discussion of security topics to the sustaining of a high quality democracy. The nuclear issue confronts society with questions that relate to the essence of democracy, national security, and the difference between a citizen and a subject in modern society. For issues as critical as the nuclear issue, should the subject be banned from the public debate? In Israeli public circles, heated debates are held about the defense budget, the treatment of security prisoners, the use of firepower, the imposition of curfews, and more – and these are all testimony to the strength of the Israeli democracy. On the other hand, the nuclear issue – whose importance cannot be overstated – is concealed under a nearly opaque veil that infringes on freedom of speech, excludes the issue from the public agenda, and prevents the public from exercising one of the fundamental principles of democracy: the public's participation in the decision making process.

The routinization of the policy of nuclear ambiguity and the excessive secrecy has not only sought to eliminate public discussion of questions even under the second and third categories, but also served as a political tool to denigrate the policy's critics as if they were "anti-patriotic." For example, Minister Yuval Steinitz, who is currently in charge of the IAEC, made cynical comments in the past about the criticism voiced regarding the age and condition of the nuclear reactor, saying that "there are people among us who are voicing concern about the safety of the reactor, but [actually] their intention is to denounce its existence."[9]

Issues that Would Not Undermine the Policy of Nuclear Ambiguity

The Israel Atomic Energy Commission is responsible for all nuclear-related activities in Israel. The head of the commission is appointed directly by the prime minister, and the IAEC is subject solely to his authority. Almost nothing is known about the IAEC's history and decision making processes; its (meager) website states that its role is to advise the government on all matters pertaining to the advancement of nuclear research and development; to recommend priorities and policies relating to the nuclear issue; to implement government policies; and to represent Israel at national and international nuclear-related institutions.[10] In February 2011, "the IAEC was restructured

... in order to adapt it to the new reality," but in fact, the IAEC remained both an operational and oversight body.[11] Over the years, allegations were raised that in essence the IAEC operates as a nuclear lobby in the Prime Minister's Office.[12] According to various reports, the nuclear issue is discussed by a secret sub-committee of the Foreign Affairs and Defense Committee (the names of the committee members are not publicized), but beyond this, the public (and its representatives in the Knesset) know nothing about the decision making processes and the oversight. Any attempt to raise the issue in the Knesset at the requisite level of seriousness has failed.

A second issue concerns oversight and the regulation of safety matters. The IAEC website describes the four tiers of safety measures at the reactors: inspection of the reactors by the professional team; the Safety Division (the safety departments) at the reactors; the Licensing and Safety Division (LSD); and the Nuclear Safety Commission (NSC), which has the ultimate authority. The NSC is an external commission, whose members are independent of the IAEC; it is appointed by the Prime Minister and submits an annual report to him. The commission's coordinator is a member of the IAEC, and "the responsibility for following up on the implementation of the recommendations is delegated to the NSC's coordinator and to the LSD."[13] Since all information on the safety issue, radiation, and so on is not disclosed to the public, it is difficult to rely on the reliability of the inspections, the supervision, and the possibility of the prime minister comprehending the technological and environmental complexity entailed in nuclear development. In fact, during a meeting of the commission that convened to clarify the safety issue at the reactor (a one-time event about a decade ago), attended by three representatives of the Knesset, some of the commission members said that they do not know whether the information provided to them by the IAEC is sufficiently credible.[14] While experts in nuclear reactor safety and world leaders have repeatedly warned about the latent dangers in aging reactors, the public has not received information about aging management of the nuclear reactor, even though this issue has no security aspect and relates only to safety.[15] Even on other topics with no connection to security issues such as cancer morbidity among workers at the Dimona reactor, the DSDE and the military censor have taken a hard line and are not willing to disclose

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information.[16] This is also true in relation to disclosure of information about radiation and radioactive waste. In fact, there is no law regulating the handling of radioactive substances, apart from a few pinpoint references in a number of laws.

The third issue is the weakening of the motivation for regional disarmament agreements (e.g., a MENWFZ – Middle East Nuclear Weapon Free Zone). In the 1970s and 1980s, the official policy of Israeli governments was to strive to reach regional disarmament agreements (Yigal Allon and Yitzhak Shamir were clear advocates of this viewpoint). Nevertheless, for years Israel's position (which was called Israel's "long corridor" policy) shows that there was opposition at the political and bureaucratic levels to agreements and discussions about disarmament agreements before peace agreements and arrangements concerning conventional armament are in place. Actually, the "long corridor" policy is a reversal of the trend that emerged in the 1970s and early 1980s. The diplomatic measures that secure this are irrelevant here, but the developments following the NPT review conference in 2010, after which a few rounds of unofficial talks were held in Switzerland, also did not lead to any significant development, and one comment was that "Israel, for its part, made every effort to impede the talks and prevent progress."[17]

The fourth issue is budget. The costs of the nuclear project are hidden under various budget items and they range, according to different reports, between NIS 4.5 billion and NIS 7 billion (12 percent of the defense budget).[18] Who oversees and controls the distribution of the budget? In articles published in the media in recent months, one can read about "irregularities" and nepotism in the management of the reactor. The State Comptroller's report devoted to the subject was barred from publication by the Prime Minister (who is also in charge of the IAEC), even though he was informed that the report does not contain any references to security issues.[19] What considerations led to the shelving of the report, which does not address security issues? In any event, the Prime Minister, upon the recommendation of DSDE, reached the decision to not publish the report, and he is under no obligation to do so.

The fifth issue concerns the DSDE and the military censor. The DSDE is a department in the Ministry of Defense that is responsible for the security of the ministry. The tremendous secrecy surrounding its activities (e.g., neither its budget nor its activities are known) has turned it into a major independent entity whose activities are not regulated by law. In essence,

it is not at all clear under what authority and law it operates and, in the past, it was alleged that it is sliding into areas of other authorities and is running independent investigations – which is not within its purview. Even though the DSDE, the military censor, and the IAEC are separate bodies, the three often act in collaboration and prevent the disclosure of official publications and research studies on the nuclear issue, while infringing on freedom of speech. For example, about three years ago, it became evident that the military censor forwarded a documentary film that was made about the construction of the reactor to the DSDE. The latter applied pressure on the interviewees in the film to cancel their participation, with the argument that the film was "too left wing." In an unusual step, the chief military censor, Sima Vaknin-Gil, apologized and said that at issue was a serious mistake.[20] Again, it is unclear according to what rules publications are censored and at times banned.

Six, over the last fifty years, there have been numerous discussions about purchasing nuclear reactors for civil needs (electricity, water desalination) and this topic made the headlines recently. It is difficult to overstate the importance of this issue for Israel's future, and it relates to the openness of the Israeli leadership in relation to all matters pertaining to the nuclear program. While an unprecedented public discussion is underway about the natural gas issue, almost nothing is said about any topic pertaining to the possibility of building nuclear power stations. Whatever the positions are in favor and against, a discussion of this is vital – although presumably the "nuclear bureaucracy" will not be sympathetic to the opening of such a discussion. Not allowing a public discussion of this issue is a warning sign, compared to the decades of lively discussions of these issues elsewhere in the world – certainly after the Fukushima disaster.

Not a few questions arise after studying Israeli nuclear history. Who makes the decisions and what parliamentary oversight is there? Is the oversight over the operation and working order of the Dimona reactor conducted properly? What are the environmental impacts of the nuclear program? Does the excessive secrecy afford the leaders of the nuclear program tremendous power and place them outside of proper supervision? By virtue of what authority does the DSDE operate? Who provides guidelines to the military censor in relation to nuclear issues? These and other questions that do not pertain to factual questions about the nuclear program need not remain unanswered due to the policy of nuclear ambiguity, as their discussion would not undermine the policy.

Initial Steps to Change the Situation

The Israel Security Agency / General Security Service was formed shortly after Israel's declaration of independence, and its roles, structure, and authorities were defined by government resolutions until the enactment of the Israel Security Agency law in 2002. The Mossad was established in 1949 and the Mossad Law has still not been legislated – which would enable it to operate extra-territorially. The head of the Mossad is appointed by the prime minister alone, without needing the approval of the government (there is a formal committee, but it is ineffectual), and the oversight over the Mossad's activities is lacking.[21] Nevertheless, a discussion has been underway for years about the need to legislate the Mossad Law, and the organization itself supports this.

On the other hand, when it comes to regulating the standing of the IAEC and the "nuclear bureaucracy," Israel lags far behind other nuclear democracies.[22] Some of the issues raised here can begin to be resolved through legislative processes that initially regulate the rules applying to the IAEC and its head – the prime minister. The law would regulate the IAEC's objectives and authorities, its decision making processes, the structure of the commission and its subcommittees – coupled with instructions regarding the appointment of internal and external auditors and an institutional oversight system. The law would also address the issue of parliamentary oversight over the nuclear program (for example, who has the right to be privy to information), and issues of confidentiality, security, and safety. Some ambiguity would remain (as is necessary), but the law would force a distinction between supervisory authorities and operational authorities – an issue that is not now sufficiently clear.

Gavison said that there is "a danger that considerations of state security would be voiced in order to prevent a discussion of controversial policy decisions, and one of the arguments is that these decisions themselves adversely affect state security, and that they can be done only under the blackout curtain. The blackout, in such instance, not only does not protect state security, but rather, it is liable to *endanger it*."[23] In this sense, the routinization of the policy of nuclear ambiguity does indeed jeopardize state security.

Notes

1 Adam Raz, *The Battle over the Bomb* (Jerusalem: Carmel, 2015).
2 Ruth Gavison, "Freedom of Speech and Atomic Secrets," *Psifas* 3 (1996): 9-21.
3 See, for example, Yair Evron, "'The Nuclear Option and the Boundaries of Public Debate' or 'The Open Discussion and Fertilization of Strategic Nuclear Thought,'" *Politika* 13 (winter 2005): 19-32. See also Avner Cohen "Nuclear Ambiguity and the Question of Limits of Information in a Democratic Regime," in the same volume.
4 For responses to the Vanunu affair from the Arab world, see Adam Raz, "The Vanunu Case from a Political Perspective: Were State Officials Behind the Affair," *HaMerhav HaTziburi* 9 (fall 2014): 68-98.
5 There were numerous references to this in the media. See, for example, Attila Somfalvi, "Steinitz and Beilin: Olmert is Not Fit for Premiership," *Ynet*, December 11, 2006; and Greg Myre, "In a Slip, Israel's Leader Seems to Confirm Its Nuclear Arsenal," *New York Times*, December 12, 2006. For the numerous reactions in the Arab world, see "Debate on Olmert Nuclear Slip," *BBC News*, December 13, 2006.
6 There is some disagreement about this among researchers. Avner Cohen calls for revision of the nuclear ambiguity policy. See Avner Cohen, *The Last Taboo: The Secret of Israel's Nuclear Status and What Should Be Done with It* (Or Yehuda: Kinneret Zmora Bitan, 2006).
7 The term is borrowed from Elaine Scarry, *Thermonuclear Monarchy: Choosing between Democracy and Doom* (New York: W. W. Norton, 2014.
8 As a marginal note, excessive secrecy is not a phenomenon unique to the nuclear issue. Israeli history shows that the authorities have concealed controversial affairs, decisions, and even failures, under the pretext of classified and privileged security information.
9 Yossi Melman, "Are You Sleeping Well at Night?" *Haaretz*, May 24, 2005.
10 See the IAEC website at http://iaec.gov.il/Pages/HomePage.aspx.
11 See the announcement in the IAEC website: http://iaec.gov.il/About/SpeakerPosts/Pages/speakerpostpag11061.aspx.
12 Among the many examples, see Amir Oren, "Wanted: Man with an Axe," *Haaretz*, February 2, 2014.
13 See AIEC website at http://iaec.gov.il/NuclearSafety/Pages/Nuclear-Safety-Commission.aspx.
14 Melman, "Are You Sleeping Well at Night?"
15 Ran Edelist, "The Americans are Pressuring Israel to Shut Down the Reactor in Dimona," *News*, February 5, 1993.
16 There has been a complicated lawsuit on this in recent years. In 2002, the Knesset decided to postpone the formation of a committee of inquiry about incidents of cancer at the reactor. Former employees of the Nuclear Research Center were in attendance during the Knesset session and said, "They want to hide the truth from us. They have been lying to us for ten years and now they are recruiting ministers to prevent us from getting at the truth." See

Aryeh Bender, "The Knesset Decided: A Committee of Inquiry about Cancer at the Reactor in Dimona will Not be Formed," *Maariv*, January 31, 2002.

17 Yossi Melman, "For the First Time Israel is Participating in the NPT Review Conference," *Maariv*, February 5, 2015.

18 Aluf Benn, "He Knows How to Decide in a Closed Room," *Haaretz*, June 3, 2014. The sum of NIS 7 billion was estimated by the ICAN Research Institute. See the summary of the study on the website: http://www.icanw.org/wp-content/uploads/2012/11/ICAN-DisarmamentDevelopment.pdf.

19 In this regard, see the interview of Nir Gontarz with the spokeswoman of the Atomic Energy Commission, Yael Doron, in the section "Product of Israel," November 20, 2015; Haim Levinson, "Dimona Nuclear Reactor Gave Millions in Business to Cronies – at an Especially Low Price and Without a Tender," *Haaretz*, November 4, 2015.

20 Emily Greenzweig, "Film Forwarded to the Military Censor was Leaked to Interested Parties," *Haaretz*, July 11, 2012.

21 Zeev Segal, "Mossad Law to be Legislated," *Walla*, March 1, 2010.

22 It appears that a process was implemented during the tenure of Shaul Horev as the IAEC chairman (2007-2015) that was designed to increase the supervision and transparency in relation to safety issues at the reactor. "The policy I forged as the head of the IAEC is a policy of greater transparency, openness to the public and more willingness to undergo professional examination by external bodies, such as a visit by government officers at the IAEC's centers, [and] reporting to external bodies." See interview with Shaul Horev in the Negev Nuclear Research Center newsletter: http://goo.gl/LSvkGY.

23 Gavison, "Freedom of Speech and Atomic Secrets," emphasis added.