SILENCING
DSDE's Concealment of Documents in Archives

Akevot Institute Report, July 2019

*"Even if somebody writes the horse is black, if the horse is not outside the stable,
it cannot be proven it is actually black"*
Yehiel Horev, former Director of Security of the Defense Establishment[1]

Introduction

The online catalogue for one of the major labor movement archives in Israel[2] contains a comment regarding one of its documents: "Booklet stored in vault [...]. Not to be provided to researchers (Order of State Archive, June 2004). The booklet in question is a document from 1948 entitled "Migration of Eretz Yisrael Arabs between December 1, 1947, and June 1, 1948". Penned during the first truce in 1948 war, the document provides an analysis of data concerning the depopulation of Arab villages during the war. Its content is discussed in the research literature about the time. Despite its historical importance, the document has been locked in a vault under orders from officials who had no legal authority to issue them and has remained in the vault until now. This report addresses the illegal practice of secretly denying public access to archival materials kept in private and public archives.

---

[1] In an interview to Hagar Shezaf, "Security Establishment conceals Nakba documents in vaults", **Haaretz**, 5 July 2019.
[2] Hashomer Hatzair (Yad Ya'ari) archives in Givat Haviva.

A team, usually of two, periodically visits various archives in Israel. Archive staff know them as "State Archive declassifiers" or "IDF Archive Officials". Others know their true organizational affiliation. The team instructs the archive director to give them certain files, sometimes large batches of files (deposits) stored in the archives. The team then goes through the materials and orders the director to place entire files, or individual documents, in a vault and deny archive users access to these materials.

Our research indicates that the materials put away by this team fall into three major categories: materials connected to nuclear issues; materials regarding the 1948 war, particularly those concerning the uprooting of Palestinian population during and after the war, and materials relating to Israel's foreign relations. These materials usually date back decades, and, in some cases, had been accessible to the public for years, and have been discussed in books, newspapers and academic papers. One archive director related that the team tends to put away documents in his archive after they are referenced in the footnotes of academic articles or books.

The members of these teams do not work for or on behalf of the Israel State Archive (ISA), but for the Director of Security of the Defense Establishment (DSDE), a department within the Ministry of Defense that has no legal powers outside the defense establishment. DSDE teams order to put away documents stored in both public and private archives based on their discretion, without legal basis or legal powers and usually without archive users being aware that materials stored in the archive are inaccessible to them. There is also no option to appeal these unlawful concealment decisions.

This report summarizes the findings of research conducted by Akevot Institute researchers between 2017 and 2019, which shows the DSDE operates without legal authority in private and public archives to deny public access to archival materials, including materials there is no legal or security grounds to conceal. Akevot Institute spent two years researching the work of the DSDE "declassification teams" in the various archives. The report provides the findings of this research, based on interviews and conversations with 15 archive employees and directors, information received under Freedom of Information applications and the contents of several dozen files the ISA declassified and cleared for access at our request.

Several years ago, following dissent at one archive against the instructions of DSDE personnel, former Chief State Archivist Dr. Yaakov Lozowick looked into the matter and concluded that the law makes no provision for DSDE powers to operate in archives. Despite this finding, the DSDE continues this work and its officials still conceal files and documents in various archives with no legal power to do so and in contravention of the law.

As the research the findings of which are published in this report drew to a close, Akevot Institute contacted the DSDE asking to interview the department official in charge of archive work. The response we received read: "The DSDE does not normally provide details about its operations".[3]

---

[3] Email from Dina Polyak, Head of Public Liaison and Complaints, Ministry of Defense to Akevot Institute, April 15, 2019.

Section 1: The work of DSDE "declassification teams"

DSDE teams periodically visit various archives, both public[4] and private, throughout the country. In some cases, they arrive once every few years, in others, once a week.

Our research indicates that the DSDE has several teams working in archives under the moniker "declassification team". The teams normally comprise of two individuals, senior retired officials from various security agencies, the IDF Information Security Department, the Israeli Military Censor, the Israel Atomic Energy Commission and others. They hold permanent, paid, most likely part-time positions performing this function.

After the team sets up in the archive, its members ask to see the catalogue. In other cases, they arrive with lists, prepared in advance, of materials they wish to examine. Sometimes the team soon realizes the archive has no records of interest to it. Other times, they examine entire deposits - hundreds of files and other documentary items, according to a prepared plan. In the latter case, the team arrives at the archive several times a week and systematically goes through the materials, document by document, looking at everything from political party internal meeting minutes to the personal files of past senior government officials, politician interviews and oral history accounts, collections of press clippings, street posters and copies of public speeches.

The accounts given by archivists with whom we spoke during this research indicate the team is mainly interested in three topics:
a. Documentation connected to nuclear issues.
b. Documentation regarding the depopulation of Palestinian villages through 1948 and 1949, and events that occurred during the 1948 war.
c. Documentation relating to Israel's foreign relations.

The teams instruct archive directors to place some of the materials examined, files, documents, even posters, in a vault and deny the public access to them. They occasionally instruct to restore from the vault materials to which, according to their assessment, the public may regain access. Our research indicates there is no procedure in place that allows archivists or researchers who use the archives' services to challenge the decision made by the DSDE teams. In at least one archive, Akevot Institute was informed the team removes the materials it wishes to examine from the premises and does not return the items it wishes to keep the public from accessing.

DSDE teams devote a great deal of attention to the nuclear issue, which seems to be the main focus of their archive operations. One archive director said a DSDE team arrived at his archive with a recently published academic paper and demanded access to the documents cited in it. The DSDE team later instructed the removal of specific files and documents cited by the paper's author, which

---

[4] The status of a Public Archive (non-governmental) was created by the 1955 Archives Law. At the time the law was enacted more than a few archives had already been operating in the country, including some with extensive collections. These and other archives which were not government run but were considered publicly important were given the status of "public archive". Section 1 of the Archive Law defines a public archive as "an Archive that is owned or operated by a non-profit organization and has been certified by the government as a 'public archive' in a notice published in the official gazette". There are currently 22 public archives, including the Central Zionist Archives, the Weizmann Archive in Rehovot, the Yad Vashem Archives and others. The Archive Law stipulates that archival materials stored in public archives will not be subject to 'foreclosure or encumbrance' and can only be transferred to the ISA or another public archive. According to a current memorandum issued by the ISA legal advisor, decisions regarding public access to records stored in public archives rest with public archive directors. See letter from Adv. Naomi Aldobi to Chief State Archivist to Dr. Yaakov Lazovik, **Files closed without legal authority in public archives**, August 12, 2018.

had been available for public access for many years. Another archive director told Akevot Institute that the DSDE team instructed the removal of files containing newspaper clippings about nuclear issues from the 1960s. Posters that were put up throughout the country during the same era, inviting the public to conferences on "nuclear non-proliferation" were removed from one of the files. The DSDE has, on more than one occasion, removed a document from a specific file, with no records kept of the removal. At least in one case uncovered by Akevot Institute, archive staff were unable to find out what happened to the document.

As a rule, archive users are not aware that materials stored in the archive have been removed from access (using an unlawful procedure) on the instructions of DSDE personnel. In a small number of cases, the archive catalogue contains an annotation that certain records have been banned from access, alluding to the practice addressed in this report. So, for instance, in the catalogue of Yad Ya'ari Research & Documentation Center, the archive of Hashomer Hatzair and the United Workers Party (MAPAM) in Givat Haviva, the annotation "deposited in the vault per instructions of State Archive declassifiers," or a similar phrase, appears in connection to certain files or documents. The catalogue of the Labor Party archive in Beit Berl notes "temporarily confidential" with respect to files removed from public access by DSDE teams. These annotations sometimes pave the way for a review of the confidentiality decision. For instance, a DSDE team instructed the director of the Labor Party archive in Beit Berl to remove a file containing the transcript of a talk David Ben Gurion gave at a Workers' Party of the Land of Israel (MAPAI) conference in Kibbutz Tel Yosef on January 19, 1965, in which he addressed the Lavon Affair. The archive's online catalogue notes that the file is a copy of a file kept at the Ben-Gurion Heritage Institute Archive, Akevot has learnt this file is accessible to the public at the Ben Gurion Archive. A review of the 63-page transcript uncovers no reason for confidentiality. Ahead of the publication of this report, we submitted the document to the Israeli Military Censor, which unconditionally cleared it for publication.

A director of a public archive believes DSDE teams provide convenient and gainful "job opportunities" for security establishment retirees. The director shared with Akevot that he was under the impression team members are idle for much of the time they spend at his archive, since they had looked through the records held there numerous times in the past. This being the case, he has them assist in routine archive tasks. He says he also seeks their professional advice on various issues pertaining to the opening of archival records for public access in areas outside their usual subject matter, such as privacy protection as they relate to opening archival records for public access.

Another public archive director told Akevot Institute that while he was aware there was no legal basis for the work performed by the DSDE in the archive, he benefits from the current arrangement. The director said that when he feels unqualified to judge how sensitive opening certain materials for public access may be, he asks DSDE staff he knows from their work in his archive to review them. He noted the fact that this service requires no monetary contribution on the part of the archive, which he views as an advantage.

The work of the DSDE in ISA branches

In addition to their work in public and private archives, DSDE teams also work in the archives of the heritage centers commemorating former prime ministers of Israel, David Ben Gurion, Menachem Begin and Yitzhak Rabin. These archives operate under laws enacted to commemorate their heritage, and unlike public or private archives, they are formally considered branches of the ISA and subject to

the provisions of the Archive Law 1955 (hereinafter: Archive Law) and the Archive Regulations (Access to Archival Materials Deposited in the Archive) 2010 (hereinafter: Access Regulations).[5]

As part of its work in these archives, the DSDE has ordered the closure of a large collection of records at the Rabin Center Archives and demanded the center pay a sizeable amount of money to have the records reviewed. The center refused to pay, and more than a decade went by before the removed records were finally cleared for access (with certain sections redacted), several months ago, after a DSDE review.

At the David Ben Gurion Heritage Institute Archives, the DSDE often removes archival records for review and simply does not return records to which it had decided to deny access. This has led, among other things, to the removal of public access to materials researchers had copied in various archives abroad for the purpose of their work and subsequently deposited in the archive. These records remain open to the public in archives abroad.

The Begin Archive, located in the Begin Heritage Center, was established in 2000. Most of the records in the archive were transferred to it at its inception from the Jabotinsky Institute, and the majority of them are personal and political. In past years, the archive ran an extensive oral history project, holding interviews with more than 150 different public figures. The Begin Archive told Akevot Institute that a "Ministry of Defense staffer" would go over the transcripts of interviews conducted as part of the project and disqualify sections in them, according to his discretion. Archive staff are under the impression that the process is a requirement given that the archive is subject to the provisions of the Archive Law.

Involvement of IDF and Defense Establishment Archive

Though the classification teams operate under the DSDE, it appears the IDF and Defense Establishment Archive (also part of the Ministry of Defense)[6] has played a role in their operation until recently. IDF Archive documents entitled "Staff Task Plan" for the years 2010 to 2015 include an entry entitled "Special declassification tasks in public archives" and the description "coordination with the Archivist and DSDE" (for 2013 to 2015, the entry also includes the remark "including B.G. [Ben Gurion] Archive)". The 2010 document mentions the "130 files, 1,200 photocopies". The documents from 2013 to 2015 note that operations for each of those years would also include roughly 50 files in the Begin [Heritage Center] Archive.[7] Special Declassification Tasks are not included in the Staff Task Plan document for 2016, perhaps following the ISA determination that these activities have no legal basis. In any event, DSDE teams have continued their archive operations.

---

[5] David Ben Gurion Law 1976, Section 20; Rabin Memorial Center Law 1997; Section 33; Menachem Begin Memorial Law 1988, Section 33.

[6] Although officially considered a branch of the ISA, the IDEA is subject to the Head of the Computer and Information Systems Department at the Ministry of Defense and its funding is part of the Ministry of Defense budget.

[7] The documents were provided to Akevot Institute in response to a Freedom of Information Application to receive copies of the archive's work plan.

Section 2: The origins of DSDE operations in public and private archives

In late May 2015, in preparation for a talk entitled "Resistance through the Collection of Information: From Yosef Vashitz' documents", Dr. Tamar Novick approached the Hashomer Hatzair (Yad Ya'ari) Archive and asked for access to one of its records, a document from the files of MAPAM member Aharon Cohen. The document in question was handwritten notes from a briefing likely given by Israel Galili to the MAPAM political committee on November 11, 1948, regarding crimes committed by Israeli combatants during Operation Hiram and Operation Yoav. Historian Benny Morris quoted from this document in his books (noting, according to convention, the name of the archive where the document is stored and the file number).[8] Dr. Novick had a copy of a printed document, similar in content to the one quoted by Morris, but with different wording. The day before her lecture, she rushed to the archive in Givat Haviva to see the original document Morris had quoted. "To my surprise", Novick told the audience who came to hear the talk, "I discovered the document was not [in the accessible archive folder], but somewhere called 'the vault'". Despite her efforts, Dr. Novick did not see the document quoted in academic literature.[9]

Similarly, when historian Yair Oron attempted to find the transcripts of a government plenum meeting from November 17, 1948, from which Tom Segev and Benny Morris quoted harsh remarks made by Minister of Agriculture Aharon Zisling (from MAPAM) regarding the expulsions and massacres carried out by IDF soldiers in Lod (al-Ludd) and al-Dawayima, the document could no longer be found at the locations cited in the two historians' books.[10]

Disappearing archival materials, including records already used in published research, is the product of a longstanding policy of removing archival records believed to be sensitive with no legal basis or clear criteria. The practice originated in self-censorship exercised by archive directors in the 1980s, in response to demands and threats made by the Chief State Archivist at the time and has morphed into the current archive work of the DSDE which has been in place since at least 2002.

Pressure from the Chief State Archivist

In 1986, historian Benny Morris published an article entitled "The Causes and Character of the Arab Exodus from Palestine: The Israel Defence Forces Intelligence Branch Analysis of June 1948".[11] The article contains a lengthy discussion of a document produced by the IDF Intelligence Service entitled

---

[8] Benny Morris, **The Birth of the Palestinian Refugee Problem, 1947-1949** (Am Oved: 1991), p. 307 (Hebrew); Benny Morris, **Correction** (Am Oved: 2000), p. .139.

[9] Tamar Novick, **Resistance through the Collection of Information: From Yosef Vashitz' documents**, given at a conference hosted by Minerva Humanities Center, University of Tel Aviv, entitled "Jewish/Zionist Resistance to the Nakba", June 1, 2015. A video of the talk (in Hebrew): https://vimeo.com/132300242

[10] Yair Auron, "The Poem That Exposed Israeli War Crimes in 1948", **Haaretz**, February 7, 2016. https://www.haaretz.com/israel-news/.premium-the-poem-that-exposed-atrocities-perpetrated-by-israel-in-48-1.5418995. In 2018, the ISA uploaded the transcripts of this government session as part of a series of government session publications from 1948 to 1967. Zisling's statements on this subject are absent from the uploaded transcripts. The pages documenting the final stage of the government session were removed from the document. Portions of government meeting transcripts were likely deleted in 1994-1995, based on criteria put in place following Government Resolution No. 3649 (PUB/37) of July 25, 1994. The criteria for declassification and classification of archival materials listed in the resolution included: "Information that may damage relations between the state and minority groups [...]" (meaning Palestinian citizens of Israel). The deleted portions were not restored in the versions published in the past year.

[11] Middle Eastern Studies, Vol. No 22. 1 (Jan., 1986), pp. 5-19.

"Migration of Eretz Yisrael Arabs between December 1, 1947, and June 1, 1948",* which contains data and analysis on the causes of Palestinian migration from their villages in the referenced period of time. Morris found the document in the collection of documents that had been in the possession of a member of MAPAM's Arab department, Aharon Cohen, which had been deposited in the Hashomer Hatzair archive in Givat Haviva.[12]

Following the publication of the article, then Chief State Archivist Avraham Alsberg wrote a letter to the director of the Hashomer Hatzair archive, Pnina Doron, in which he decried the "political harm" and the "harm to the archivist community".[13] Alsberg threatened to remove government materials and personal collections belonging to government officials that were stored in the Hashomer Hatzair archives and transfer them to the ISA. He asked Doron to tend to the matter discreetly so as not to cause a dispute "between the relevant parties".[14] While Doron replied she believed they "were not to blame", she did order the closure of the Aharon Cohen collection (which contained the document) until further notice and placed some of the documents from this collection in the archive's vault.[15] On Alsberg's demand, parts of former Minister Israel Barzilai's personal archive were handed over for review by an ISA staff member.

The issue preoccupying the Chief State Archivist at the time was public access to records deposited in public archives by public figures and state officials, copies of which stored in the ISA and other government archives were inaccessible to the public. During a meeting of the Higher Council on Archives held shortly after the correspondence between Alsberg and Doron, Alsberg mentioned this case and another case of a newspaper report concerning the "issue of determining the borders in 1967/9 and the government's position on it", which relied on letters written by Minister Israel Galili to Prime Ministers Levy Eshkol and Golda Meir (the director of the Yad Tabenkin Archive, where Galili's collection had been deposited, later clarified his archive was not the source for the story).[16] Alsberg demanded to apply the Access Regulations, which at the time provided no possibility of declassifying materials during the Restricted Access Periods, to public archives as well. The directors of several archives who were in attendance expressed willingness to remove access to the materials voluntarily.[17]

---

* In the paper by Benny Morris the title of the document is translated as: The Emigration of the Arabs of Palestine in the Period 1/12/1948-1/6/1948

[12] Yad Ya'ari archive, File (7)95-10.10.

[13] Even earlier, in 1983, Chief State Archivist Alsberg reprimanded the directors of the Yad Tabenkin and Hashomer Hatzair archives for allowing researchers to access transcripts of government meetings stored in their archives, saying: "Access to incomplete materials and potential citations from questions and speeches by one minister or another during a government meeting could harm the state even if the full transcripts of the discussion remain confidential. I consider this a most grievous matter and I ask you to ensure archival records belonging to former ministers is not made available to archive users without our approval". Letter of Chief State Archivist to the directors of the Hashomer Hatzair and Hakibutz Hameuhad archives, December 14, 1983. ISA File G-7295/2.

[14] Letter from Chief State Archivist Avraham Alsberg to Director of Hashomer Hatzair Documentation and Research Center in Givat Haviva, March 6, 1986. A copy of the letter is located in ISA File G-7978/7. That same day, Chief Archivist Alsberg forwarded a copy of this letter to Ze'ev Tzur, Director of the Hakibutz Hameuhad archive (Yad Tabenkin) in Efal, repeating the request to "make the arrangements" for closing archival records to the public "discreetly, so as not to provoke unnecessary argument". Letter from Alsberg to Ze'ev Tzur, March 6, 1986. ISA File G-7978/11.

[15] Letter from Pnina Doron to Avraham Alsberg, March 18, 1986. ISA File G-7978/7.

[16] Letter from Ze'ev Tzur to Avraham Alsberg, June 4, 1986. ISA File G-7978/11.

[17] Transcript (with hand written corrections) of Higher Council on Archives meeting of May 29, 1986, pp. 34-43. ISA File G-7326/3.

The Higher Council on Archives revisited the issue five years later, in 1991. Chief State Archivist at the time, Reuven Yaron, noted the issue had not been "exhausted" in the previous discussion, and once again, cautioned against public access to records stored in public archives which are closed in government archives. Yaron noted that he was "aware of the limits of [his] powers" and said he was seeking dialogue "so that the various public archives won't provide an opportunity, a back door for those who find the doors of the large state archives locked".[18] Several months later, he convened a committee of Higher Council on Archives members to discuss the issue. However, the discussion focused on other issues.[19] The Higher Council on Archives never discussed the topic again.

DSDE operations in the archives

Our research indicates the DSDE began its operations in archives in 2002. One archive director told Akevot Institute that the first communication in the matter was received from the director of the IDF Archive at the time. The situation presented to this archive director was a need to prevent public access to records stored in non-government archives that could be damaging to Israel's national security and foreign relations. Halfway through 2002, representatives from the DSDE, the ISA and the IDF Archive held a series of meetings with public archive directors in their archives. Akevot Institute located minutes of three of these meetings (containing identical language),[20] indicating that DSDE operations in archives was presented as the work of "IDF Archive declassification teams":

> Whereas [archive name] may contain archival records access to which is restricted under the Archive Regulations 1966, pursuant to the Archive Law, the following decisions have been made:
>
> 1. The ISA, in concert with the IDF Archive, will conduct a screening of archival records stored in [archive name] for the purpose of identifying sensitive materials in terms of security and foreign relations to which the public should not be given access or which must be assessed prior to declassification.
>
> 2. Funding for screening operations will be presently provided by the IDF Archive and executed by a team working on its behalf. The Chief State Archivist will take action to secure further funding and personnel for this purpose.
>
> [...]
>
> 5. Archival records deemed to warrant confidentiality for reasons related to threats to national security or foreign relations shall be stored in [name of archive] according to security directions on the care of classified materials.[21]

DSDE head in 2002 was Yehiel Horev. "I do not remember when it started," he said to Haaretz journalist Hagar Shezaf for an investigative feature released with this report, "but I know I started it. If I am not mistaking, it started when they wanted to publish archival documents." Chief State Archivist at that time was Prof. Tuvia Friling. He told Shezaf a stated purpose for DSDE activity in the archives was avoid information leaks of Israeli nuvlear project, and tat the concealment was

---

[18] Transcript of Higher Council on Archives meeting of April 21, 1991, pp. 33-40. ISA File G-7977/1.

[19] Transcripts of The Committee for Review of Declassification of State Documents in Public Archives, November 4, 1991. ISA File G-7974/13.

[20] "Meeting minutes: Screening of Archival Records at Yad Tabenkin Archive", July 10, 2002; "Meeting minutes: Screening of Archival Records at Hashomer Hatzair Archive", July 17, 2002; "Meeting minutes: Screening of Archival Records at the Labor Party Archive", July 30, 2002.

[21] "Meeting minutes: Screening of Archival Records at the Labor Party Archive", July 30, 2002.

expanded to other topics, including records on Palestinian refugees and events of the 1948 Independence War. Friling claims this concealment activity was one of the reasons for his resignation shortly later. Horev himself confirms concealing of records on 1948 events was intended to harm public debate and academic research: if the original documentation is hidden, research findings are weakened and the potential harm of a fact-based public debate is reduced.

> "The issue is very sensitive. On the issue of [Palestinian] refugees not everything was released, and there are all sorts of narratives. Some say there was no flight, that there was only expulsion; others say there was a flight. This is not black and white. There's difference between a flight and those who say they was forcefully expelled. It's a different story."

Horev addressed the benefits, from his perspective, to concealing historical documents, including those quoted in academic literature:

> "I do not remember [the Migration Movement] document, but if [historian Benny Morris] quoted from it, and he has no hold of the document itself, than his facts are not strong. If he saus, 'yes, I have the document' I cannot argue, but if all he says is that something is written there, it may be true or not true. If the document was already out there, and they would close it down, I would say this is stupid. But if somebody quotes something, it is a difference of night and day in terms of the evidentiary value. […] when the state conceals [archival records] publication becomes weaker, as the [the researcher] does not hold the document."

Up until several years ago, DSDE teams had a document signed by the Chief State Archivist empowering them to take action on his behalf. Former Chief State Archivist Dr. Yaakov Lozowick told Akevot Institute:

> This work began before my time. I don't know for how long, but before my time. When I took office, and there were many things I did not know, they told me... They came to me and said that because there was a new state archivist, they needed me to sign instead of my predecessor. There was no one in the room who told me not to sign [...] I was told they go around archives all over Israel and find materials that are of interest to the DSDE, which, in my humble opinion, is very very specific material and nothing else [...], and when they see these materials, they tell whoever has them: "Take note of what you have. Put it in a vault, or hand it over to the ISA". No one hands anything over to the ISA. They put it in the vault and exercise caution. So, I signed, why not. And they... I'm not their manager. They don't give me a work plan or anything like that. I know they go around the country and do all sorts of things. I've heard rumors that they close things that are not just connected to the "core issue", but I admit I haven't looked into it".[22]

Questions regarding the legality of DSDE operations in archives emerged only in recent years, after a DSDE team attempted to remove records kept at the archives of the Harry S. Truman Institute at the Hebrew University, which is a private archive. A DSDE team arrived at the archive and demanded accessible records be removed, citing the Archive Law as a source for its instructions. Prof. Menahem Blondheim, until recently the head of the Truman Institute, told the DSDE men they had no authority

---

[22] Conversation between Dr. Noam Hofstadter of Akevot Institute and Dr. Yaakov Lozowick, then Chief State Archivist, June 8, 2017.

to do so and that the records stored in the archive are private and should not be concealed. "This is history", he explained. The DSDE team insisted it had the right to render historical documents kept by the institute confidential. At the end of one of these conversations, Prof. Blondheim says he "booted" the DSDE men out of the institute. Another discussion, attended by a more senior DSDE staffer, escalated to threats that the DSDE "can confiscate the archive", and even what Blondheim describes as unveiled personal threats against him.[23]

Prof. Blondheim contacted then Chief State Archivist Dr. Yaakov Lozowick, prompting Dr. Lozowick and the ISA legal department to look into the legal questions surrounding the operations of DSDE teams. They reached the conclusion the DSDE operations are not legally sanctioned and that the Chief State Archivist has no legal power to delegate DSDE staff to work in public and private archives.[24] In conversation with Akevot Institute, the Chief State Archivist offered the following conclusion:

> If I had been asked to extend the letter of authorization, I would not have done it. When I leave this position, I will advise my successor to look into the matter very carefully before doing so.[25]

Even after it emerged that the DSDE operated in the archives without legal authority, the Chief State Archivist did not undertake to contact the various archives and warn them regarding the lack of legal basis for the work of the DSDE, nor did he instruct archive directors how to respond to the work of the DSDE in their archives. And so, DSDE teams continue to operate in archives to this day, and materials unlawfully removed from public access long ago remain inaccessible to the public today.

The "Arab Migration" document from the collection of Aharon Cohen at Yad Ya'ari is one of these documents. According to an annotation on the Yad Ya'ari digital catalogue, the DSDE team instructed the document remain in the vault on June 20, 2004 ("Not to be provided to researchers - Order of State Archive"). However, Akevot Institute researchers found an identical copy of this document in another file stored at Yad Ya'ari, the collection of Yosef Vashitz, also a member of MAPAM's Arab department.[26] Akevot Institute forwarded the document to the Israeli Military Censor, which unconditionally cleared it for publication. The full document has been posted to the Akevot Institute website in tandem with the publication of this report.

---

[23] Conversation between Adam Raz, Akevot Institute Researcher and Prof. Menahem Blondheim, January 25, 2019. After Prof. Blondheim stood his ground and refused to allow the DSDE to render records confidential and they did not back down, a "pragmatic arrangement" was reached: A. The DSDE could review the records stored in the archive and make a list of documents it believes should be rendered confidential. B. These documents would be reviewed by a "committee" headed by Carmi Gilon, former Head of the General Security Service (1995-1996) and current Hebrew University Vice-President of External Relations. Gilon would decide whether the documents should be made confidential.   Blondheim stressed that the documents would remain accessible until Gilon makes a decision.

[24] An internal Ministry of Defense protocol instructs that a DSDE delegate would serve on a committee entrusted with making decisions in applications made by the public to declassify records stored in the IDEA. **Ministry of Defense Directive 59.14: Processing of applications from the public to access restricted archival records**, Section 9.

[25] Conversation between Akevot Institute and then Chief State Archivist, June 8, 2017.

[26] Yad Ya'ari Archive, File (3)35.27-95.

Section 3: Acting without legal authority

The duties of the Director of Security of the Defense Establishment (DSDE) include overseeing the physical safety of security installations in Israel and preventing security information leaks. The very fact that the DSDE existed was kept secret for many years, and in its early decades, its work revolved around Israel's nuclear program. Its size and budget are not released to the public. Some consider it an independent security agency. Dan Meridor, a former minister, has recently said of the DSDE that it is charged with "protecting state secrets on highly sensitive issues".[27] The DSDE is a department within the Ministry of Defense, and its operations are governed not by law but by internal Ministry of Defense directives.

Illegal operations in public and private archives

The work of the DSDE described in this report is carried out in archives that do not belong to the defense establishment or the State of Israel, but rather private and public archives.[28] Neither the Archive Law nor its regulations grant any powers to the Chief State Archivist, the DSDE or any other party to deny public access to materials stored in public or private archives.

This position was recently clarified in a memorandum authored by the ISA's legal advisor, Adv. Naomi Aldobi following a communication from the director of the Hashomer Hatzair archive to former Chief State Archivist Dr. Yaakov Lozowick. In the memorandum Adv. Aldobi wrote at the request of the Chief State Archivist, she highlighted that while the conditions for public access included in the bylaws of public archives should emulate the conditions stipulated in the Access Regulations (which apply only to government archives - the ISA and its branches), a "public archive does not come under the provisions of the Access Regulations and the powers to determine access policies for records stored in any public archive rests with the director of the archive, provided that it is commensurate with the bylaws of said public archive which received the approval of the Chief State Archivist".[29] Nevertheless, Adv. Aldobi clarified that the only sanction the Archive Law and its regulations provide against an archive whose bylaws do not contain provisions similar to the Access Regulations is the revocation of its status as a "public archive", a sanction which, as noted by the Chief State Archivist, carries little weight.

With respect to private archives, Adv. Aldobi found "the Chief State Archivist has no powers under the Archive Law with respect to the public access to archival materials in private hands". As in public archives, decisions on which records will be accessible to the public and which will not be the sole purview of the private archive's management.

---

[27] Interview on TV talk show "London and Kirschenbaum", Channel 10, June 27, 2017. Available online (in Hebrew): http://10tv.nana10.co.il/Article/?ArticleID=1253094

[28] See supra note 3.

[29] Memorandum by Adv. Naomi Aldobi, ISA Legal Advisor, forwarded to Chief State Archivist, "Files closed without legal authority in public archives", August 12, 2018. The memorandum was attached as an appendix to the letter sent by the Chief State Archivist to members of the Higher Council on Archives on August 22, 2018. It is worth noting that in the final paragraph of her memorandum Adv. Aldobi added that "inasmuch as a public archive has state archival materials, it must deposit these in the ISA in keeping with the provisions of Section 4(a) of the Archive Law". However, a review of the legislative history of this particular section conducted by Akevot Institute revealed that Section 4(a) of the Archive Law and the background for it do not refer to the transfer of materials from various archives to the ISA. The section addresses the obligation of government bodies to deposit their documents with the ISA.

Illegal operations in ISA branches (Ben Gurion, Begin, Rabin archives)

The operation of the DSDE in the archives established to commemorate the heritage of the late prime ministers Ben Gurion, Begin and Rabin, which formally constitute part of the ISA is also carried out without legal authority.

Public access to archival records stored in government archives in Israel is regulated by the Archive Law and its regulations. The Access Regulations stipulate Restricted Access Periods for records based on the type and source of record (ranging from 15 to 70 years). They also stipulate rules on the declassification of records and the grant of public access to them either on the initiative of the archive or by request. The law and the regulations list three major interests the protection of which could mandate preventing the declassification of archival records or their rendering confidential: security (national security, public safety and the safety of a particular person), Israel's foreign relations and privacy protection.

Only three parties may participate in declassification and confidentiality proceedings pertaining to archival records according to the law and regulations: the depositors of the materials (may participate in the examination of deposited materials for the purpose of declassification); the Chief State Archivist (empowered to declare certain documents as "secret" or "confidential", thereby denying public access to them even after the Restricted Access Period stipulated for these materials in the Access Regulations expires) and a designated committee of three ministers - the Ministerial Committee for Permission to Access Classified Archival Records, which has the power to approve the decisions made by the Chief State Archivist on this matter.[30]

Should the need arise to deny public access to records stored in the Ben Gurion, Rabin or Begin center archives, the correct course of action is under Section 10c of the Archive Law - a decision by the Chief State Archivist approved by the ministerial committee. Any other measure taken to deny public access to archival records that are past the Restricted Access Period, such as the work of the DSDE teams, is conducted without legal authority. According to Dr. Lozowick's account, during his tenure as Chief State Archivist, he had no involvement in the activities of the DSDE and was not briefed on them. The DSDE has no authority to operate in the ISA or its branches at the Ben Gurion, Begin and Rabin archives.

---

[30] For a concise discussion of the provisions of the Archive Law and Access Regulations on access to archival materials, see Chapter 1 of Akevot Institute report **Point of Access: Barriers for Public Access to Israeli Government Archives** (April 2016) (hereinafter: Point of Access).

Conclusion

Public access to historical records in Israel is subject to close monitoring by the security establishment. The IDF and Security Establishment Archive, the largest archive in the country, has so far opened only one percent of its records to public access.[31] The General Security Service (*Shin Beth*) archive, which contains highly valuable historical records is completely closed to the public and does not allow any research of its materials.[32] The Israeli Military Censor has recently posted an officer to the ISA, as part of what was presented as a pilot program, to review archival records before they are made accessible to researchers and the public at large.[33] The findings of this research show that the security establishment bars public access to records kept in non-state archives, with no transparency or legal authorization to do so. The meager access to archival records kept in government archives results in private and public archives being a major source for historical research of the State of Israel. The work of the DSDE in these archives impedes access to records, which is the foundation of reliable, independent research. The cumulative effect of this is distortion and misrepresentation in public and political discourse about major chapters and events in the history of the country. In the few cases in which we were able to review the content of documents removed by the DSDE, their publication proved to pose no threat to security, as evidenced also in the clearance given by the Israeli Military Censor.

The fact that much of the DSDE's work is focused on hiding historical records of the Nakba is particularly disturbing as it denies Jewish citizens of the country access to records of a controversial chapter in Israel's history. It also robs Palestinian refugees and citizens of Israel of recognition for the crisis they experience, and of familiarity with historical facts as recorded and kept in various archives.[34] These activities must stop immediately.

Archives do contain sensitive records on security and other matters. Several archive directors with whom we spoke highlighted the need for a consulting official who could provide instruction on this issue. The Association of Israeli Archivists, the archivists' professional association, would do well to respond to fill this gap identified by archivists.

Recommendations

To the DSDE:

End operations in public and private archives immediately.

To the Deputy Chief State Archivist:

---

[31] See **State of Access to Israeli Government Archives** (September 2017: Akevot Institute); **Point of Access: Barriers for Public Access to Israeli Government Archives** (April 2016: Akevot Institute).

[32] In response to questions posed by Akevot Institute under the Freedom of Information Act, the GSS refused to provide figures on the scope of records in its archive. In response to a request for figures and details regarding archival materials the GSS has opened for public access so far, it was stated that these records are available on the GSS website. There are a handful of documents and photographs on the website. E-mail response of Shaked Friedrich Levtov, Prime Minister's Office Freedom of Information Unit to Lior Yavne, Akevot Institute, April 11, 2019.

[33] Ofer Aderet, "Israeli Military Censor to Post Officer in State Archive Office, Worrying Historians", **Haaretz**, December 27, 2018. https://www.haaretz.com/israel-news/.premium-israeli-military-censor-to-post-officer-in-state-archive-office-worrying-historians-1.6787264 .

[34] With respect to access to records concerning human rights violations in government archives see Chapter 5 of Akevot report **Point of Access** (pp. 71-76).

a. Contact the head of the DSDE at the Ministry of Defense. Stress that the work of DSDE teams in the various archives is carried out without legal authority and order its cessation.

b. Contact public and private archive directors in Israel. Clarify that the instructions to deny public access to archival records kept in them had been given without legal authority and instruct them not to cooperate with DSDE teams or follow their instructions.

To the Association of Israeli Archivists:

Appoint a professional authorized by the association to advise public and private archives on issues related to providing public access to records kept in their archives while maintaining a proper balance of the different relevant interests.

To the directors of public and private archives where public access to records has been denied on the instructions of DSDE teams:

a. Inform archive users of the fact that certain records have been made inaccessible on the instructions of the DSDE, citing the scope of said records and, if possible, the titles.

b. Provide public access, as per their professional assessment, to records closed on orders of the DSDE in their archives, where such access does not pose a threat to security, foreign relations or privacy protection.