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**BETRAYING TRUTH: THE ABUSE OF
JOURNALISTIC ETHICS IN MIDDLE EAST
REPORTING**

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BETRAYING TRUTH: THE ABUSE OF JOURNALISTIC ETHICS IN MIDDLE EAST REPORTING

By Kenneth Lasson

Abstract

In a world at once increasingly chaotic and historically interconnected, the news media have come to play unprecedented roles both in the virtually instantaneous recording of fast-moving events and in influencing the occurrence and evolution of those events themselves. The media, of course, are not beyond reproach. Freedom of the press does not mean immunity from criticism. Reputable journalists abide by standards which, though largely self-imposed, are presumed to be honestly applied. When these principles are abrogated, violators should be taken to task.

Nowhere has this responsibility been more tested than in the Middle East, where for over a half-century Israel has been locked in a pitched battle against its neighbors for recognition of its national legitimacy. Those who feel that the Jewish state has been treated unfairly by the media have difficulty fathoming how others might harbor a different perspective. Contrarily, many in the Moslem world view the Western press as biased against Arabs.

This article presents a brief overview of press freedom under the First Amendment, attempts a working definition of media "objectivity," examines various codes of professional ethics for journalists, and analyzes specific cases of where such standards have allegedly been abused or abandoned in Middle East reporting.

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BETRAYING TRUTH:
THE ABUSE OF JOURNALISTIC ETHICS
IN MIDDLE EAST REPORTING

By Kenneth Lasson*

*The duty of the journalist is . . . seeking truth
and providing a fair and comprehensive account of events and issues.*
-- Preamble, Code of Ethics, Society of Professional Journalists

Introduction

In a world at once increasingly chaotic and historically interconnected, the news media have come to play unprecedented roles both in the virtually instantaneous recording of fast-moving events and in influencing the occurrence and evolution of those events themselves.

This phenomenon has been amply illustrated over the past half-century – often with utter clarity and sometimes profoundly – in the protracted conflict between Israel and its Arab neighbors, which has been as much a war of words as it has been of armed battles, suicide bombings, and other brutally random acts of terror.

Thus has it become more essential than ever to require that the media be encouraged towards professional responsibility while at the same time being held accountable for ethical failures. How can this be accomplished in a free society in which journalists are protected from recrimination for what they speak and write – such as in the United States, where the First Amendment both shields the press from governmental interference and grants it broad power to disseminate information as it sees fit? ¹

The media, of course, are not beyond reproach. Freedom of the press does not mean immunity from criticism. Reputable journalists abide by standards which, though largely self-

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imposed, are presumed to be honestly applied. When these principles are abrogated, violators should be taken to task.

Nowhere has this responsibility been more tested than in the Middle East, where for over a half-century Israel has been locked in a pitched battle against its neighbors for recognition of its national legitimacy. Those who feel that the Jewish state has been treated unfairly by the media have difficulty fathoming how others might harbor a different perspective. Contrarily, many in the Moslem world view the Western press as biased against Arabs. ²

Critics of Mideast coverage are facile at ferreting out what they feel is the widespread use of judgmental terminology, and accuse the media of relying on language that nurtures ambiguity and confusion.

Is it fair, for example, to label Hamas a “militant” organization instead of a “terrorist” one? Is there an inherent bias in declaring that “extremists on both sides” contribute equally to a “cycle of violence”? Are there specific and accurate definitions of words like “occupation,” “massacre,” and “freedom fighter” by which the media should abide?

Or do journalists rightly reject the possibility that buzzwords can quickly turn to bombast, or ignore the idea that words can wound?

Terrorist or militant? Occupied or disputed? Cycle of violence, or cause and effect? The actors and their actions are news, but media descriptions can be quite political – and consequential.³

As George Orwell admonished in his 1946 essay *Politics and the English Language*: “[P]olitical language – and with variations this is true of all political parties, from Conservatives to Anarchists – is designed to make lies sound truthful and murder respectable, and to give an appearance of solidity to pure wind.”⁴

This article presents a brief overview of press freedom under the First Amendment, attempts a working definition of media “objectivity,” examines various codes of professional ethics for journalists, and analyzes specific cases of where such standards have allegedly been abused or abandoned in Middle East reporting.

I. “Objectivity” and the First Amendment

The oft-stated and highly desired goal of modern journalism is objectivity, the detached and unprejudiced gathering and dissemination of news and information. . . . It’s a pity that such a goal is impossible to achieve. As long as human beings gather and disseminate news and information, objectivity is an unrealizable dream.

-- Richard Taflinger, Edward R. Murrow School of Communication

The First Amendment is virtually absolute in protecting freedom of speech and press. Except for defamation suits, which occur frequently, most of the other restrictions – for example, the protection of national security or the prevention of an imminent danger – are rarely invoked. There are also legal limitations related to invasion of privacy and using tainted sources of information.⁵

Some say that even defamation suits threaten the vitality of First Amendment rights. Former Supreme Court Justice Hugo Black wrote forcefully that “no law” abridging freedom of the press meant just that, and that all libel laws therefore violate the First Amendment:

The only sure way to protect speech and press against these threats is to recognize that libel laws are abridgments of speech and press and therefore are barred in both federal and state courts by the First and Fourteenth Amendments. . . . An unconditional right to say what one pleases about public affairs is what I consider to be the minimum guarantee of the First Amendment.⁶

But the majority of the Supreme Court has never adopted Black’s point of view, instead staking out a middle ground by ruling that there must be a proper accommodation between protecting reputations and ensuring “breathing space” for First Amendment freedoms. If the press could be punished for every error, a chilling effect would freeze publications on any controversial subject.⁷

Nevertheless, although it is well established that the First Amendment protects journalists as well as common citizens against reproach for most of what is spoken/written, the only protection for readers against biased or false information is the good faith and objectivity of the media.

As is the case with other professions, the press’s independence has been justified by its role in upholding the public good. A “social responsibility” theory was articulated in the

influential 1947 Hutchins Commission on the goals of journalism entitled *The Social Responsibility Theory of the Press*, which argued that the news media must be held accountable for this particular liberty to survive, and that its “legal right will stand unaltered as moral duty is performed.”⁸

The report identifies six tasks as essential to the press's political role in a democracy, including “servicing the political system by providing information, . . . enlightening the public,” so that it is “capable of self-government, . . . and serving as a watchdog on government.” The social responsibility theory assigns a special role for the press in view of its recognition as a First Amendment right. The self-same freedom that would permit irresponsible conduct by the media is seen to impose a duty to act responsibly.⁹

Absolute objectivity may be unrealizable, but for any investigative reporter or contemporary journalist such a goal remains fundamental. While often characterized as “the mother of all our liberties,”¹⁰ the concept of a free press had little or nothing to do with truth-telling when it was first considered by the Founding Fathers. Most of the early newspapers were partisan broadsheets attacking political opponents. Freedom of the press meant the right to be just or unjust, partisan or non-partisan, true or false, in news column or editorial column.¹¹

As to the First Amendment, much has been made of Thomas Jefferson's libertarian perspective on free speech: that the best way to deal with error is to permit its correction by truth.¹² “The bar of public reason,” said Jefferson, “will generally provide the remedy for abuses occasioned by the unfettered dissemination of information. Only when security and peace are threatened should the discussion of political, economic, and social affairs be restrained.”¹³

Historians appear to agree that the idea of objectivity has been an elusive goal of American journalists since the appearance of modern newspapers in the Jacksonian Era of the 1830s. By the 1890's it had emerged as a guiding principle, whose application was nurtured throughout much of the 20th Century.¹⁴ Newspapers were expected to be partisan in the 1800s, but by the 1960's, objectivity was a hallmark of American journalism.¹⁵ It was viewed not as something “simple-minded and pallidly neutral, but as a demanding, intellectually rigorous procedure holding the best hope for social change . . . an antidote to the emotionalism and jingoism of the conservative American press.”¹⁶

Objectivity itself would soon be criticized because such reporting reflected a vision of reality which failed to examine the basic structures of power and privilege. The assault on objectivity gained momentum in the 1950s, when Senator Joseph McCarthy attacked “communist sympathizers” in government, the entertainment industry, academia, and the media. Many critics then and now blamed adherence to a strict interpretation of objectivity as giving life to and prolonging McCarthy's vendetta. On the other hand, one could argue it was the objective approach of Edward R. Murrow and other journalists that ultimately brought McCarthy's campaign to an end.¹⁷

By 1996, the Society of Professional Journalists had dropped “objectivity” from its code of ethics. Some journalists began to replace the social responsibility theory of the press with a theory of “civic” or “public” journalism, suggesting that rather than stand outside the process the press should intervene in a way that would make citizens participants in it.¹⁸

The common view is that there is no such thing as true objectivity, because journalists reflect their cultures as much as anyone else. The news story is a value-laden device structured according to preconceptions, not a means to seek truth according to a professional canon of

neutrality. All reporting requires the reporter to make personal and subjective judgments.¹⁹

In addition, objectivity has always been in tense competition with the need to make profits, which was largely accomplished through the sale of advertising. Publishers, not wanting to offend potential advertisers, thus encouraged news editors and reporters to present all sides of an issue. The emergence of wire services and other cooperative arrangements likewise forced journalists to produce more “middle of the road” coverage that would be acceptable to newspapers of differing political persuasions. “What is insidious and crippling about objectivity is when journalists say: ‘We just present you with facts. We don’t make judgments. We don’t have any values ourselves.’ That is dangerous and wrongheaded.”²⁰

Nevertheless, journalistic objectivity – an ambiguous term which can refer to disinterestedness, factuality, and nonpartisanship – is a significant principle of professionalism to which many in the Western media, particularly in the United States and United Kingdom ascribe. Objectivity is not only an American journalistic goal, but a goal of foreign media as well, even in countries without the broad jurisprudence afforded Americans via the First Amendment.²¹

While the goals of objectivity and accuracy many not always yield a fair and balanced story, they are necessary components. Critics of an objective approach have managed to change the culture of journalism so that it obscured and devalued balanced reporting at the very time it is most needed.²²

Although few journalists honestly lay claim to total neutrality, those who are intellectually honest strive toward filtering biases from their reporting of the news. At its core objectivity requires an emphasis on eyewitness accounts of events, corroboration of facts with multiple sources, and a “balancing” of sources to present all important aspects of a topic. Journalists are thus considered to be part of a “fourth estate” – an independent institution separate and distinct from the three traditional estates of church, military, and business, or (more broadly) private citizens, special-interest groups, or government.²³ As such, journalists should adopt a reasonably impartial point of view, simply reporting “both sides” or “all sides” of issues and not taking positions on them.²⁴

This conception of objectivity has been criticized as failing to serve the public by substituting “he-said-she-said balance” for truth. Moreover, such objectivity is nearly impossible to practice because newspapers inevitably take a point of view in deciding what stories to cover, what to feature on the front page, and what sources to quote.²⁵

For others, objectivity itself is of limited value when the adoption of a clear position becomes a moral imperative. During the 1890’s, for example, it was wrong for major newspapers like the *New York Times* to describe the lynching of thousands of black people the hanging, immolation and mutilation of men, women and children by mobs with clinical detachment. Under the guise of objectivity, newsmen often attempted to balance such accounts by recounting the alleged transgressions of the victims that ostensibly provoked the lynch mobs, effectively normalizing the practice.²⁶

The more appropriate goals, the argument proceeds, should have been fairness and accuracy, where taking a position on an issue would be acceptable so long as the other side was given a reasonable opportunity to respond.²⁷ If objectivity is defined as simply presenting all sides to a dispute, journalists abdicate what could and should be a moral obligation to investigate the truth or validity of the published allegations.

If the First Amendment protects virtually all written communication, what sanctions are available for abuses of journalistic discretion? It is relatively difficult to prevail in either defamation suits, invasion-of-privacy actions, or intentional invasions of emotional distress, or at least to win substantial damages in such cases.

Nevertheless, although those remain the primary legal recourses available under the First Amendment, journalists in a democracy have a moral covenant with their audiences to provide thorough, balanced reporting and commentary.²⁸

The theoretical framework for this requirement can be found in moral philosophy through civilization, from Aristotle to Immanuel Kant to John Rawls. Aristotle's concept of the Golden Mean – the desirable middle between two extremes, one of excess and the other of deficiency – informs the idea of journalistic balance, the notion of objectivity.²⁹ Kant believed that morality necessarily involves a struggle against our emotional inclinations – or, in this context, the need to divorce personal bias from reporting of events in the service of accuracy and intellectual honesty.³⁰

The quality of foreign news coverage might be viewed from the perspective of justice, relying upon Rawls' iconic "Veil of Ignorance." In his *Theory of Justice*, Rawls offered such a metaphorical garment as a mental device to enable individuals to formulate a standard of justice while remaining ignorant of their place in or value to their society. His social contract is one in which rational individuals would agree to just solutions if they were each placed behind a veil of ignorance, permitting them to know "the general facts of human society" such as political affairs; it prevents them from knowing any particular facts about themselves.³¹

II. Codes of Professional Ethics for Journalists

*The duty of the journalist is . . . seeking truth
and providing a fair and comprehensive account of events and issues.*

– Code of Ethics, Society of Professional Journalists

Though standards of conduct may not be imposed upon journalists by the government, the profession itself has long recognized the importance of abiding by certain core ethical principles.

The code accepted by most of the news media is that promulgated by the Society of Professional Journalists, whose members, believing that “public enlightenment is the forerunner of justice and the foundation of democracy,” pledge to pursue “seeking truth and providing a fair and comprehensive account of events and issues.” They “strive to serve the public with thoroughness and honesty.” The cornerstone of their credibility is “professional integrity.”³²

The goals of the SPJ code are four-fold: *To Seek Truth and Report It; To Minimize Harm; To Act Independently; and To Be Accountable.*³³

In “seeking truth,” ethical journalists are required to be “honest, fair and courageous in gathering, reporting and interpreting information.”³⁴ In “minimizing harm,” they should treat sources, subjects and colleagues as human beings deserving of respect.³⁵ In “acting independently,” they should be free of obligation to any interest other than the public’s right to know.³⁶ Finally, journalists “are accountable to their readers, listeners, viewers and each other.”³⁷

Major American newspapers have codified their own rules regarding professionalism and ethics in reporting, but some do not specifically address the issues of bias and balance. For example, the *New York Times*’ Code of Conduct revolves mostly around the avoidance of bias engendered by personal relationships. But the general principle underlying its rules is clear: “[I]t is essential that we preserve professional detachment, free of any hint of bias.”³⁸

Similar ethical codes are in place in virtually all Western countries.

Britain’s National Union of Journalists also promulgates a code of conduct, among whose pertinent provisions are that –

A journalist shall rectify promptly any harmful inaccuracies, ensure that correction and apologies receive due prominence and afford the right of reply to persons criticised when the issue is of sufficient importance. . . . No journalist shall knowingly cause or allow the publication or broadcast of a photograph that has been manipulated unless that photograph is clearly labelled as such. Manipulation does not include normal dodging, burning, colour balancing, spotting, contrast adjustment, cropping and obvious masking for legal or safety reasons.³⁹

The National Syndicate of French Journalists adopted a code of conduct which states in part that “A journalist worthy of the name . . . considers the slander, unfounded accusations, alteration of documents, distortion of facts, and lying to be the most serious professional misconduct.”⁴⁰ The German Press Code likewise asserts that “respect for the truth, preservation of human dignity and accurate informing of the public are the overriding principles of the press.”⁴¹

In Italy, a journalist “has to respect, cultivate and defend the right of information of all

people; for these reasons he researches and diffuses every piece of information that he considers of public interest in observance of truth and with a wide accuracy of it."⁴²

As clearly stated as such principles may be, a fair reading of the facts demonstrates that they are frequently breached, with harmful consequences.

III. The Abuse of Journalistic Ethics in Middle East Reporting

The word “terrorist~ itself can be a barrier rather than an aid to understanding. We should try to avoid the term without attribution.

– Editorial Guidelines, British Broadcasting Corporation

When the news media fail to abide by their own journalistic standards, they should be called to account. Adherence to this code of ethics is intended to preserve the bond of mutual trust and respect between journalists and their audience.⁴³ Doing so effectively, however, often requires their support and cooperation, which often appear to be lacking. To the contrary, the media often seem to be either defensive or non-responsive to documented criticism.⁴⁴

This is particularly true in coverage of events that take place in Israel and the surrounding Arab nations – where three primary abuses of explicit journalistic standards are easily identifiable: clearly biased language/inappropriate word choices, inaccurate reporting of facts, and non-reporting of notable events.

To be sure, abuses are claimed by all sides to the long-running conflicts – by both critics who perceive anti-Western/Israeli media bias and those who see it running in quite the opposite direction.⁴⁵

Nevertheless, although everyone has a right to their own opinions, no one is entitled to manufacture facts.⁴⁶ This should be especially true for journalists.

The examples below are necessarily selective, but are intended to be representative.

Prejudicial Word Choices

Should we understand what is newsworthy by the words used to describe events more than by the events themselves? News reports are supposed to record action, not the pretexts of the actors. Word choices can be highly prejudicial. If one person’s “terrorist” is another’s “freedom fighter,” then like similarities can render a suicide bomber a martyr, or a tumor a wart.

Both Israelis and Palestinians are engaged in a momentous war of words – a pitched battle for the public opinions of the outside world as much as a struggle for territory. But coverage of current events in the Middle East presents serious dilemmas for both the international media and the countries caught in this conflict.

“Moral Equivalency”

Journalistic integrity demands adherence to several basic and interrelated principles: factual accuracy; reporting in a reasonably balanced (that is, comprehensive) manner; and understanding the context of events and code words used to define them. Moreover, the Western journalist’s traditional search for objectivity and balance should be underscored and highlighted whenever it is threatened by intimidation or otherwise compromised in authoritarian societies.⁴⁷

In the Mideast, however, these rules have been substantially fogged by what has come to be known as “moral equivalency” – that is, reporting the positions of each side in a conflict as if they were of equal merit – effectively obfuscating any distinction between aggressor and victim. Although the quest for balance can reflect a genuine concern for accuracy, in this case there is ample evidence to suggest that it may also be caused by fear and, bias, as well as by the fatigue factor that sets in during coverage of such a long and protracted conflict.⁴⁸

Over much of the past decade the Palestinian Authority has adeptly depicted its constituents as dispossessed and oppressed – effectively eliciting widespread sympathy by way

of effective sound bites and poignant images. “You cannot shoot our children and get away with it~”exclaims PA spokeswoman Hanan Ashrawi in perfect English. Negotiator Saeb Erekat decries the “daily massacre of Palestinians by Israel.”⁴⁹

The message thus becomes, How can Israel want peace when its mighty army sends tanks against impoverished stone-throwers?

Israel, on the other hand, has often assumed a defensive position – that its military responses have been solely to physical provocations and out of the need for security. It has been slow to present in clear and simple ways what many consider its best arguments: that it has been under siege from Arab countries and movements for more than half a century. It has been unable to focus attention on how the Palestinian leadership employs both its educational system and its communications media as tools of incitement; how rock-throwing teenagers sometimes serve as camouflage for machine-gun-firing militia and how PA ambulances are used as command-and-control vehicles to deliver troops and weapons to demonstration sites.⁵⁰

“Terrorists” v. “Militants”

Perhaps the single most problematic choice of words in Mideast journalism are those used to describe the perpetrators of violence that takes place frequently against non-combatants in Israel and elsewhere. Particularly troublesome are the terms “terrorist,” “militant,” and “extremists on both sides” – all of whom are said to contribute to a “cycle of violence,” which itself is a phrase that strongly implies equivalency.

Terrorist attacks against Israeli citizens are often treated differently by the media than similar atrocities committed against other nationalities. Murderers are assigned more benign labels such as “gunmen” or “militants.” For example, in October of 2003 when a Palestinian woman detonated a bomb in a crowded beach restaurant in Haifa, killing 21 people (including four children), the Reuters account said she had waged an “attack” in retaliation for previous Israeli army actions and that the bombing showed that Palestinian officials had failed to “rein in the militants.”⁵¹

In fact the word “terrorist” is firmly forbidden at several major news-gathering organizations: the Associated Press, the British Broadcasting Corporation, and Reuters. This protocol can have bizarre consequences, such as when the AP published a list of countries afflicted by terrorism and conspicuously omitted Israel.⁵²

According to the BBC’s official producer’s manual, “Our credibility is severely undermined if international audiences detect a bias for or against any of those involved. Neutral language is key: even the word ‘terrorist’ can appear judgmental in parts of the world where there is no clear consensus about the legitimacy of militant political groups.”⁵³

But the BBC apparently does not question the damage done to its credibility when its reporting goes a good deal further, occasionally assuming the role of Palestinian advocate. In March of 2001, for example, correspondent Judy Swallow interviewed both Palestinian spokesman Saeb Erekat and Israeli Knesset member Yuval Steinitz. With Erekat she spoke courteously and respectfully, while discussing Palestinians who stone, shoot, and bomb non-combatant Israeli men, women, and children. But her manner changed abruptly when she addressed Steinitz. When he pointed out that Israeli cities were suffering a wave of car bombs, she broke in sharply:

How is it that you make as a precondition of any talks . . .the Palestinians must end the violence. You know yourself that you were never capable of ending the violence. You

couldn't contain Hamas, Islamic Jihad. If an army the size of Israel's cannot stop that violence, how do you expect the small Palestinian Authority to do so?⁵⁴

Use of the term "terrorism" – which can be defined as "the use of violence against non-combatants, civilians or other persons normally considered to be illegitimate targets of military action for the purpose of attracting attention to a political cause, forcing those aloof from the struggle to join in, or intimidating opponents into concessions"⁵⁵ – should not depend on interpretative consensus but on violation of law. Arguably, there is no more appropriate word to describe suicide bombings or other aggression against civilians.

Yet National Public Radio likewise consistently refuses to call homicidal attacks by Palestinian Arabs against Israeli civilians terrorism – although it regularly uses the term to describe the activities of Al Qaeda and other radical Islamic groups around the world.⁵⁶ NPR vigorously denies this criticism, despite thoroughgoing documentation by various watchdog groups, most notably the Committee on Accuracy in Middle East Reporting in America (C.A.M.E.R.A.).⁵⁷ What NPR cannot deny is the reality of the widespread perception in this context, including that by several members of Congress.⁵⁸

A similar taboo appears to be firmly in place at both the *Washington Post* and *New York Times*, widely considered among the most respected newspapers in the United States. Both choose to use the term "militant" (occasionally preferring the somewhat more neutral "gunman" or "fighter") instead of "terrorist" – even when they refer to members of groups formally designated as "terrorist organizations" by the United States State Department.⁵⁹ While the *Post* avoids the more accurate words "terrorism" and "terrorist" in reporting attacks against Israeli non-combatants, it often uses those terms in its coverage of similar events elsewhere, especially when reporting such violence directed against Americans. *Times* reporters likewise often dilute the deeds of Palestinian terrorist bombers by calling them "militants" – while whenever possible labeling Israeli victims in the West Bank as "settlers" (as opposed to "civilians").⁶⁰

"Truces," "Cease-fires," and "Occupations"

In June of 2008, a number of Qassam rockets landed in Sderot, causing injuries and considerable damage to buildings. A BBC report entitled "Hamas, Fatah, Discuss Dialogue, Truce With Israel" led with allegations of Israeli violations of the cease-fire and, three paragraphs later, noted the Palestinian rocket and mortar fire that precipitated the Israeli response. Even then the report reflected a moral equivalency between rocket and mortar attacks on non-combatants in the western Negev and the firing of warning shots by an Israeli Defense Force wary of potential terrorist activities near the border fence.⁶¹

Similarly, both the *New York Times* and the *Washington Post* have habitually referred to Syria's "presence" in Lebanon but to Israel's "occupation" of the West Bank and Gaza Strip.⁶²

In July of 2008, immediately following an incident in which a Palestinian Arab used a bulldozer to kill three Israelis on a public street in Jerusalem and injure dozens more, many news outlets blamed the man's outrage on "the occupation." The *New York Times* noted that "Caterpillar equipment has a special resonance among Palestinians. Human rights activists have lobbied the company to stop selling its heavy vehicles to the Israeli military out of concern that they have been used to demolish Palestinian homes, uproot orchards and construct Jewish settlements in occupied land."⁶³

The Reuters news agency contrasted Israel's supposed oppression of West Bank and Gaza residents generally with its alleged maltreatment of Jerusalem Arabs: "Unlike Palestinians in the blockaded Gaza Strip and in the occupied West Bank, those living in occupied east Jerusalem have free access to the Jewish west of the city and to Israel."⁶⁴

Can the word "occupied" be fairly applied to a territory from which Israel made a unilateral withdrawal, as it did from the Gaza Strip in 2005? Or to the West Bank, over which Israel still exercises extensive authority, the result of a successful war of self-defense in 1967 and pending negotiations to resolve its status according to U.N. Security Council Resolutions 242 and 338?⁶⁵

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Between April and September of 2007, the media watchdog *HonestReporting* undertook a detailed examination of Middle East coverage by the *New York Times*, still one of the most influential newspapers in the world.⁶⁶ Its findings can be summarized as follows:

Despite an evenly balanced selection of stories on Israel and the Palestinians, the *Times* gave far more weight to Israeli military incidents in its news reporting, text location, headlines, and photograph selection than it did to unprovoked Palestinian attacks. More than 60 percent of images sympathetic to one side or the other favored the Palestinians.⁶⁷

Israeli and Palestinian actions were not treated consistently in choice of language. Israel or its military forces were the subject of strongly worded, direct headlines in eighteen out of twenty cases (90 percent). However, in the twenty cases where Palestinian combatants were responsible for attacks, the language was mostly passive and the group responsible was named only eight times.⁶⁸

Important context that would give readers a fuller picture of news events was often omitted. Politicized terms such as "militants," "occupied territory," and "illegal settlements" were used without explanation. For example, "militants" in Western usage can apply to non-violent activists – militant environmentalists or traditionalists; in the Middle East, it is often a euphemism for terrorists. Israel is the military occupant and authority of the West Bank, but the legal status of the land is disputed. The position of the U.S. government is not that Jewish villages and towns in the West Bank are illegal, but that they represent an obstacle to negotiations. Israel has always insisted that the primary relevant international law, the larger Mandate for Palestine, assumed by the United Nations, continues to recognize Jewish rights to "close settlements."⁶⁹

The *Times* tends to diminish the importance of violence against Israel by virtue of the way it places stories on a page. For example, in 2001, when a ten-month-old Israeli baby named Shalhevet Pass was shot and killed by a Palestinian sniper in Hebron, the story was carried on the front page of many American papers, but the *Times* put it on page ten.⁷⁰ Similar treatment was given a report of the brutal bludgeoning murders of two fourteen-year-old Israeli boys (one an Israeli-American). Even those accounts were "balanced" with the number of Palestinian Arabs killed by IDF gunfire – suggesting an equivalency between the deliberate targeting of civilians with soldiers shooting in response to being shot at.⁷¹

The *Times'* placement of editorial matter likewise betrays bias. In July of 2001, the paper published a lengthy front-page opinion article by its Israel bureau chief, Deborah Sontag, suggesting that all the parties to the Camp David peace talks, not just Yasser Arafat, were to blame for their failure. Although Ms. Sontag acknowledged that her article was based solely on conversations with "peace advocates, academics, and diplomats" – and not with the principals or with any participants from the Israeli side – its prominent position on page one contributed to its impression of *gravitas* and authenticity. Her views were immediately countered by Israel's former prime minister Ehud Barak, as well as by the *Times'* own William Safire – but their comments appeared on the opinion pages at the back of the first section.⁷²

The *Times* also gives op-ed space to leaders of Hamas, which is designated as a Foreign Terrorist Organization by the United States State Department, the United Kingdom, the

European Union, Israel, and other countries.⁷³ In so doing the *Times* relies on the argument that Hamas is the “legitimate and democratically elected Palestinian government,” and that its “political wing” should be distinguished from its “military wing.”⁷⁴

Would the *Times* grant the same editorial indulgence to al Qaeda or Osama bin Laden? In fact no such distinction is made by Hamas itself – a group whose charter calls for Israel’s destruction and is filled with unadulterated anti-Semitism, and which has been responsible for the murder of U.S. citizens in Israel. In the case of Gilad Shalit, an Israeli soldier it captured in 2006, Hamas also claims that it is not bound by the Geneva Conventions because it is not a state (and thus has no obligation to allow Red Cross visits to Shalit). Although the *Times* has made numerous references to alleged violations of international law by Israel, it has made no editorial mention of such a gross violation of international law and human rights.⁷⁵

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Biased reporting sometimes employs subtle innuendo. This is especially true when political agendas seep into reportage. The *Post’s* coverage of President Barack Obama’s brief visit to Israel in July of 2008 (when he was still a candidate) exemplifies editorializing too often seen in its news coverage.⁷⁶

The article reporting on the trip included the statement that “Palestinian gunmen in Gaza have long fired makeshift rockets at Sderot, typically after Israeli military operations in the strip or the Israeli-occupied West Bank.” In fact, though, Israel’s military actions in the Gaza Strip and the West Bank are almost invariably counter-terrorism operations, either responsive or pre-emptive, as compared to unprovoked Palestinian attacks against Israeli civilians. Palestinian terrorists fired more than 2,000 rockets from Gaza at the nearby Israeli town of Sderot in the four years between 2004 and mid-2008; after September, 2005 Israel had withdrawn all settlers from the Strip.⁷⁷

By inverting cause-and-effect the *Post’s* report injects editorial comment, essentially favoring the Palestinians. When the story also refers to “the Israeli-occupied West Bank,” even though the legal status of that area remains in dispute, it takes sides.⁷⁸ Regarding Sen. Obama’s unequivocal support for Jerusalem as Israel’s “eternal, undivided capital” in his speech to the American Israel Public Affairs Committee in June of 2008, the *Post* reported that “that comment drew sharp protest from Palestinians, and Obama quickly corrected the statement at the time, saying that by undivided he meant a city not carved up by barbed wire as it was at one time.”⁷⁹

Why use the word “corrected” instead of “changed,” “amended,” or “clarified”? Moreover, the description of “a city not carved up by barbed wire as it was at one time” obfuscates the contextual fact that Jerusalem had been divided by barbed wire during its occupation by Jordan from 1948 to 1967 – which division was removed when Israel reunified the city during the Six-Day War of 1967. (The *Post* likewise chooses to ignore Jordan’s expulsion of all Jewish residents from eastern Jerusalem in 1948, and its destruction of more than fifty Jewish synagogues and institutions there.)⁸⁰

The *Post* reported that Obama’s trip to Ramallah took him “past the system of checkpoints and barrier walls that Israel has built in what it says is an effort to thwart suicide bombers and other would-be attackers from the West Bank.” What Israel says? In fact – as has been widely reported, even in the *Post* – after construction of Israel’s West Bank security barrier

began in 2002, terrorist attacks declined dramatically.⁸¹

Similarly inconsistent are the *Post's* avoidance of the words "terrorism" and "terrorist" in reporting attacks against Israeli non-combatants, but using those terms when covering similar events elsewhere – as well as its longstanding references to Syria's "presence" in Lebanon but to Israel's "occupation" of the West Bank and Gaza Strip.⁸²

Meanwhile, the *Post* has consistently chosen not to report from the besieged southern Israeli town of Sderot or to publish a detailed account about the effects of incessant Palestinian terrorist rocket fire in that area.⁸³

So too the foreign desk has shown a general indifference to the news potential of the United Nations' failure to police south Lebanon – Hezbollah's re-arming of its forces in violation of U.N. Security Council resolutions; incessant Palestinian anti-Israeli, anti-Jewish incitement in violation of numerous agreements; and the connections between Iran and the Palestinian terrorist groups, including Hamas.⁸⁴

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National Public Radio's coverage of the Middle East regularly minimizes or omits Palestinian incitement and aggression, blames Israel for much of the violence, and repeats Palestinian grievances without challenge or response. A few examples:

* In a story about Hamas, NPR declined to mention its stated aims to destroy Israel, Jews, and Judaism, besides opposing the peace process. It characterized Sheik Ahmed Yasin (the Hamas leader known to be responsible for numerous deadly terrorist attacks) simply as "a spiritual leader."⁸⁵

* Palestinian rioters were depicted as "lobbing stones at an Israeli military outpost," while Jewish rioters were described as engaging in "mob-style aggression."⁸⁶

* The Jewish neighborhood of Gilo is called "a settlement built in occupied east Jerusalem" when in fact it is an integral part of the city.⁸⁷

In a recent six-month period of intensive coverage on the Middle East, not one of NPR's 278 segments was devoted to the strategic significance of the West Bank, and only one report discussed the military significance of Golan Heights.⁸⁸

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On more than one occasion the British Broadcasting Company's reportorial style has given the appearance of not-too-subtle advocacy for the Palestinian point of view.

For example, in March of 2001, the BBC's Judy Swallow interviewed both Palestinian official Saeb Erekat and Israeli Knesset member Yuval Steinitz. She treated Erekat with all due respect as he made serious charges against Israel, but when talking with Steinitz, her manner changed noticeably. Steinitz had deplored what he called Erekat's "hypocrisy" in faulting Israel for the suffering of his people while the Palestinian Authority continued to initiate violent attacks (including a wave of car bombs) requiring Israeli response. Swallow broke in –

Dr. Steinitz, how is it that you make as a precondition of any talks . . . the Palestinians must end the violence? You know yourself that you were never capable of ending the violence. You couldn't contain Hamas, Islamic Jihad. If an army the size of Israel's cannot stop that violence, how do you expect the small Palestinian Authority to do so?

The Guardian likens Israeli society to that of apartheid South Africa without supplying context. *The Guardian* could have noted, for example, that Israel is a parliamentary democracy, that Arab parties serve in the Knesset where they freely attack Israeli policies and leaders; that there are no bans on intermarriage; that universities are open to Arab students, or that Israel's Supreme Court has forbade discrimination in housing and jobs.⁹⁰

The *Guardian's* online section titled "Israel and the Palestinians" includes as one of its "useful links" a reference to " Hamas military wing" – which is actually the English-language site of "Ezedeen Al-Qassam Brigades," which describes itself as "the armed branch of the Islamic Resistance Movement (Hamas)." Members of this faction are actively involved in terrorist acts and some have the blood of innocent Israeli civilians on their hands.⁹¹

Inaccurate Reporting of Events

Checks, Lies, and Videotape

After the outbreak of the "al-Aqsa intifada" in September 2000, the most striking initial image in Middle East news was that of a terrified twelve-year-old Arab boy caught in the crossfire at a Gaza flashpoint. The terrified youngster, reported the *New York Times*, was named Muhammad al-Dura – "trapped by Israeli gunfire, and then slumping lifeless into his father's lap."⁹²

The image quickly became iconic. Photographs of the shooting appeared on the front pages of newspapers around the world. The *London Guardian* observed that –

For all of the claims of the prime minister, Ehud Barak, and other officials that their soldiers only fire to protect Israeli lives, Mohammed's death seems an irrefutable reply. The images of al-Durah and his son cowering, vainly, behind a barrel would have been emotive enough if, as first reports suggested, they were caught in the crossfire between Israeli soldiers and Palestinian police or protesters. But by the end of the weekend the evidence was pointing to a still more chilling conclusion: that the 12-year-old boy and his father were deliberately targeted by Israeli soldiers.⁹³

A Palestinian cameraman working for a French television network captured the incident on videotape, and over the next few days a snippet was aired hundreds of times by local and regional stations and international networks. A Saudi prince gave \$100,000 to the boy's father, saying that "al-Durah was the spark which made the world know about the barbaric acts being carried out by the Israeli aggressors against unarmed civilians."⁹⁴

The newspaper photos and video clips left important questions unanswered: How had the boy and his father come to be in the midst of the shooting? Was it an Israeli or a Palestinian bullet that struck him? How did one Palestinian stringer find himself so well situated to photograph it? If any response were sought that day from the Israeli government or military, none was published. A brief radio dispatch noted that the Israeli Defense Forces expressed regret for the shooting, but said that none of its officers or soldiers saw the father and son, who were hidden from the Israeli line of sight by a concrete abutment protruding from a building. (The statement made no reference to the fact that Palestinian gunmen were positioned behind the father and son and were firing machine guns at the IDF – which the video clip failed to show.)⁹⁵

Two months later, an official army investigation, which included schematic diagrams of the lines of fire, second-by-second analyses of crucial portions of the French videotape, and

aerial photographs of the site, concluded that there was “a very reasonable possibility” that the boy “was hit by Palestinian gunfire.”⁹⁶

The IDF investigation was not widely reported in the Western press.

The following week, other killings related to the *intifada* occurred that were just as shocking as the al-Dura case. Two Israeli reservists had strayed into a Palestinian roadblock. They were seized and taken to the Palestinian police headquarters in Ramallah. A mob learned of their presence, stormed the small building where they were being held, murdered them, and threw at least one bloodied body out of a second-floor window to rioters below, who proceeded to rip it apart.⁹⁷ The incident had been videotaped by an Italian television network, which released it to an international feed. The tape was shown on worldwide television. A still photo of one of the demonstrators, raising his bloody hands in exultation, was published widely. The Palestinian Journalists’ Union issued a stern reproach to the Italian network, which promptly apologized to the Palestinian Authority.⁹⁸ The union also warned the Associated Press bureau in Israel that if its coverage did not improve, the group would adopt “all necessary measures against AP staffers.”⁹⁹

It was not long before the image of Muhammad al-Dura resurfaced. The video of his apparent death continued to be televised throughout Arab-Islamic countries and Europe, inciting anti-Israel hatred. The boy’s wounded father, giving interviews from his hospital bed in Amman, Jordan, became a regional celebrity. Arab poets and songwriters composed dozens of tributes to his memory; postage stamps were issued in the boy’s honor; streets were named after him.¹⁰⁰

Besides the fact that the murder of the Israeli reservists received much less media attention, noticeably lost in the coverage of the al-Dura incident was the surfacing of empirical evidence that strongly suggested the boy could not have been shot by the IDF.

In June of 2003, the *Atlantic Monthly* ran a cover story by James Fallows, a respected investigative journalist, analyzing the incident in great detail, and concluding that al-Dura – if he died at all – was most likely the victim of an errant gunfire from Palestinian gunmen. Fallows reported that Palestinian Arabs had staged some alleged shootings near the site of the al-Dura incident, and only the Palestinian stringer for French television, of all the cameramen nearby that day, got the footage.¹⁰¹

Fiamma Nirenstein, a veteran Italian journalist and Jerusalem correspondent (and now a member of Parliament), suggested that the failure went well beyond simple media bias. Using the repeated images of the al-Dura tragedy, certain intellectuals and journalists, she wrote, reflected contemporary anti-Semitism:

Europe could finally forget the famous picture of the boy in the Warsaw ghetto with his hands raised. The meaning of this statement . . . is obliteration of the Holocaust through the overlapping of Israel and Nazism. . . . It means pretending to believe blindly through the overlapping of Israel and Nazism. . . . It means pretending to believe blindly, without investigation, the Palestinian version of a highly disputed episode and of many, many others; it means taking for granted the “atrocities” that the Palestinian spokespersons always talk about, and ignoring every proof or fact that doesn’t serve this position.¹⁰²

Perhaps even more egregious than the inaccurate reporting of the al-Dura incident the almost total non-reporting of the landmark libel case to which it gave rise.¹⁰³

The "Massacre at Jenin"

In the Arab-Israeli media over the past five years, perhaps no phrase has become more of a lightning rod than the "massacre at Jenin."

In April of 2002, shortly after the Israel Defense Forces invaded a Palestinian refugee camp area adjacent to the West Bank city of Jenin, a report came out over the wire that Terje Roed-Larsen, the UN's special envoy in the region, witnessed the event, which he described as "horrific beyond belief." His views were quoted widely in the international press, and trumpeted by Palestinian Arabs and their supporters as evidence of Israeli brutality. PA leaders, among them Saeb Erekat, charged that Israel had massacred at least 500 Palestinians. That figure made its way from the Cable News Network to the UN Security Council, which immediately demanded access to the site of the killings.¹⁰⁴

The harshest criticism appeared in the British press. The *Independent*, the *Telegraph*, and the *London Times* all quoted the same lone Arab who said he saw Israeli soldiers heap thirty bodies beneath a half-wrecked house. "When the pile was complete, they bulldozed the building, bringing its ruins down on the corpses. Then they flattened the area with a tank."¹⁰⁵ The *Telegraph* reported that hundreds of victims "were buried by bulldozer in [a] mass grave."¹⁰⁶ The *Evening Standard* said, "We are talking here of massacre, and a cover-up, of genocide."¹⁰⁷ The *Guardian* called Israel's actions in Jenin "every bit as repellent" as Osama Bin Laden's attack on New York on September 11th.¹⁰⁸

Many of the reports of the supposed Israeli atrocities in Jenin came from various Palestinian sources, but all parroted by National Public Radio, CNN, and others in the Western media. Typical was the description of events by Nasser al-Kidwa, Palestinian representative to the United Nations, on CNN:

There's almost a massacre now taking place in Jenin. Helicopter gun ships are throwing missiles at one square kilometer packed with almost 15,000 people in a refugee camp. . . . Just look at the TV and watch, watch what the--what the Israel forces are doing. . . . This is a war crime, clear war crime, witnessed by the whole world, preventing ambulances, preventing people from being buried. I mean this is an all-out assault against the whole population.¹⁰⁹

In fact there *had been* a pitched battle near but not in Jenin. It took place in the refugee camp, over several days, during which there was house-to-house fighting between Israeli troops and members of Palestinian militia. Twenty-three Israeli soldiers were killed, as well as fifty-five Palestinians – of whom fifty-two were armed gunmen. (These figures were later confirmed by both the United Nations and, more recently, by the Palestinian Authority itself.)¹¹⁰

When the facts finally did emerge a few days later, virtually no correction or apology was made by the media that had reported a "massacre," no acknowledgment of the documented truth. Thus to many the image of a slaughter at the hands of the Israelis remains indelible.

The British press were the primary story-tellers. One of the few exceptions was Richard Starr of the London's *Daily Standard*. What had been labeled "the massacre of the 21st century" was a lie, he wrote, "concocted not only for local consumption – to keep the Palestinian people whipped up in a patriotic, Israel-hating frenzy – but mostly for export to the West."¹¹¹

"Collective Punishment"

Article 33 of the Fourth Geneva Conventions (1949) established collective punishment as a war crime, emphasizing individual responsibility: “No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons and their property are prohibited.” Article 52 of the Convention's Additional Protocol I (adopted in 1977) similarly states that “Civilian objects shall not be the object of attack or of reprisals.”¹¹²

In the first five months of 2008, the non-governmental organization known as Human Rights Watch issued thirteen statements condemning Israel's response to attacks against Israeli civilians launched from the Gaza Strip. These statements – which to some observers reflect a political agenda, misinterpret international legal terminology, repeat incomplete or false analyses of international law, and omit or minimize deliberate Hamas attacks at Israeli border crossings through which humanitarian aid is transferred (as well as the diversion of this aid by Hamas)¹¹³ – were picked up by the independent media.¹¹⁴

Many Western newspapers and other media misuse the term “collective punishment,” and apply it in a discriminatory way. For example, editorials in the *Boston Globe* reserve the phrase almost exclusively for Israeli actions, and not for frequent Palestinian rocket and mortar attacks from the Gaza Strip or Hezbollah's 2006 bombardment of Israeli cities and civilian centers. While numerous *Globe* editorials over the years have criticized the punishment of populations – non-Arabs in Sudan at the hands of the Arab controlled government, Serbians by NATO air-power, Iraqi Kurds and Shiites at the hand of Saddam – none of the commentaries used the phrase “collective punishment” in characterizing repeated, random attacks on non-combatant populations by governments.¹¹⁵

In fact collective punishment by Arab governments or movements against other Arabs is seldom noted by the media, let alone collective punishment against non-Arab minorities. For example, the Algerian War between the government and Muslim fundamentalists they began in 1992 and resulted in the deaths of more than 100,000 people, mostly non-combatants. Arab states expelled the majority of their Jewish populations in reprisal for Israel's successful self-defense in the 1948-1949 War of Independence. Hafez El-Assad of Syria destroyed half of the Sunni city of Hama (massacring 20,000 men, women and children) as collective punishment for a Muslim Brotherhood uprising against his minority Alawi regime in 1982.¹¹⁶

Little of this was widely reported or editorially condemned.

These events can easily be distinguished from various Israeli actions that have been labeled “collective punishment.” Israel's reduction of fuel and electricity exports to the Gaza Strip, for example, was called a contemporary instance of collective punishment. In a lawsuit filed by Israeli and Palestinian civil rights groups before Israel's Supreme Court, these organizations asked the Supreme Court to make Israel end fuel restrictions that caused power blackouts in the Gaza Strip. Both the activists and representatives of many state members of the Security Council charged that the restrictions constituted collective punishment of Gaza's estimated 1.4 million people and violated the Fourth Geneva Convention.¹¹⁷

This claim misleadingly conflates a failure to aid with active criminal harm. Context is ignored: acts of war are launched daily against Israel from Hamas-run Gaza. Since Israel withdrew from the Gaza Strip in 2005, more than 6000 rockets and shells have been fired against Israeli cities – first especially Sderot, about two miles from the Strip, more recently at Ashkelon, Ashdod, and Ben Shira, major Israeli population centers twenty miles distant. The doctrine of

collective punishment forbids the imposition of criminal or military penalties (e.g., imprisonment or death) on some people for crimes committed by others. The cessation of trade with a country or hostile entity such as the Strip is not inflicting a criminal or military penalty against all its residents who have no entitlement to objects of trade that they have not yet purchased. The electricity withheld from sale was a military tool. (Israel continues to export approximately \$500 million worth of goods and services into the Gaza Strip each year.)¹¹⁸

Israel's response to the terrorizing, wounding, or murder of its civilians – a kind of collective punishment in its own right – has been to target perpetrators of such violations of international law. Yet the clear difference between legal force and collective punishment is seldom reflected in media coverage of the conflict.

Likewise unreported is the fact that Israel's treatment of non-combatants in a hostile populace is more consonant with international law than that of many of its Arab neighbors.¹¹⁹

Failure to Correct Misreported Facts

On December 20, 2007, the *Washington Post* published an article headlined "For Israel's Arab Citizens, Isolation and Exclusion" by its Jerusalem bureau chief Scott Wilson, stating that Arabs other than Druze were excluded from serving in the Israel Defense Forces.¹²⁰ A reader pointed out that many Israeli Bedouins, who are Arab Muslims, have indeed been members of the IDF, as have some Christian Arab volunteers. The reader asked the newspaper's foreign desk for a correction. The *Post* declined. Its ombudsman, Deborah Howell, wrote an explanation in a column entitled, "Was 'Excluded' the Wrong Word?"¹²¹

Reporting about Israel and the Middle East is an important but thankless task, Middle East reporting assignment means catching flak from pro-Israel and pro-Arab groups who often see stories through their own lenses. Although the *Post* had been informed that thousands of Bedouin have served in the Israeli military as reconnaissance scouts and trackers, the paper insisted only a few did so – as "spies" Excluding Bedouin (as somehow non-Arab and only "spies"), the *Post* asked that Leibowitz "give . . . the name of one Arab." She replied with the names of three Israeli Arab soldiers killed in the line duty just since 2000, and referred to five others.¹²²

C.A.M.E.R.A. subsequently published ads headlined "The Washington Post Refuses To Correct Key Error on Israel," in the *Washington Times* and the *Washington Jewish Week*. The ads noted that the *Los Angeles Times* had corrected a similar error, and that other news media had reported the matter accurately. In response, Ms. Howell acknowledged that the IDF does have about 400 non-Druze Arabs "out of about 1.2 million Israeli Arabs," but still pointedly refused to print a correction. The *Post's* ombudsman concluded that "it would have been better if Wilson had qualified 'excluded' and mentioned the Bedouin."¹²³

Yet the Code of Ethics of the Society of Professional Journalists, to which the *Post* subscribes, requires journalists to "be accountable [and] admit mistakes and correct them promptly."

Non-Reporting of Events

The Landmark Case in France ("L'Affaire Enderlin")

Perhaps the most noteworthy event to go virtually unreported was the fallout from the al-Dura affair, particularly a landmark libel trial in France.¹²⁴

In the case of Muhammad al-Dura, it was no surprise that Charles Enderlin, the longtime Jerusalem correspondent for the state-run France 2 TV, who released the 59-second news report,

appears to have hastily pieced together sensational footage of the incident even though it had been supplied by the channel's regular Palestinian stringer. Given the nature of the news business today, such haste might be explained as contemporary custom of the trade. More disturbing, perhaps, was that Enderlin had not sought to verify whose bullets had, in fact, killed the boy – if, indeed, the event had not been staged (a possibility suggested shortly after the initial news coverage).¹²⁵

In the ensuing eight years, the sympathetic figure of Muhammad al-Dura cowering beside his distressed father became the defining image of the second *intifada*, with photographs of the “child martyr” appearing on posters, Web-sites, postage stamps, and street signs throughout the Muslim world.

Others, however, had their doubts. This was caused partly by Enderlin and his superiors themselves, who flatly declined to provide the complete 27 minutes of footage taken that afternoon by the cameraman, or to concede any possibility of error. It was two years before he allowed himself to be interviewed, at which time he explained that he had refused to provide the tape because he had wanted to protect his sources. In fact his decision had been supported by the French television hierarchy. Moreover, his coverage of Israel and the Palestinian Authority (while regularly criticized by pro-Israeli groups) was highly esteemed by his peers.¹²⁶

Several media watchdogs and bloggers, however, refused to let the story die, focusing specifically on the sources of inflammatory news and video. It became clear that many if not most foreign correspondents covering the West Bank and Gaza Strip from Israel relied on local stringers and cameramen. Guidelines routinely endorsed by working journalists were ignored, or honored in the breach – particularly the prohibition on staging scenes for the benefit of photographers.¹²⁷

Among those who believed the entire al-Dura incident had been staged was Richard Landes, a professor of medieval history at Boston University, who compared the controversial al-Dura footage with photographs taken by other cameramen on the scene that day.¹²⁸

Another was Philippe Karsenty, a French Jew who spent several years publicizing what he called an “arrant hoax” perpetrated by France 2. The television network sued Karsenty for libel. A lower court found against him and ordered that he pay one euro in damages to the plaintiffs, a fine of 1,000 euros, and another 3,000 euros in costs. Karsenty appealed. The appellate court ordered France 2 to produce evidence, in particular the infamous 27-minute unedited master footage in the plaintiff's possession – which not even Enderlin had seen when he filed his report. (His Palestinian cameraman had sent him by remote link about six minutes from which to make the segment.) France 2 eventually produced 18 minutes of film. The judges called for the rest.¹²⁹

That would prove to be the major turning point in the proceeding. Karsenty was now able to come to court with a great deal of additional documentation, including a 90-page ballistics report. He was supported by Luc Roxenzweig, the former chief editor of *Le Monde*, who was investigating the evidence for the Egyptian-based Middle East News Agency (MENA). Rosenzweig had persuaded France 2 to let him see the 27 minutes of missing film. He described for MENA the scenes in the tape that indicated purposeful staging just before the fatal shooting: “Palestinians being carried on stretchers into ambulances, then coming out again unharmed, all in a kind of carnival atmosphere, with kids throwing stones and making faces at the camera, despite what was supposed to be a tense situation.” Rosenzweig pointed out how the tape showed occasional gunshots, not continuous firing. From the general horsing around captured on film by

Abu Rahmeh, he concluded that the whole scene must have been staged.”¹³⁰

All those present at the original screening agreed that, while it was impossible to determine precisely where the bullets had come from, it was highly unlikely that they could have been fired from the Israeli garrison. Further, what had been described as the child’s “unbearable agony” was nowhere to be seen: a logical conclusion was that, rather than having been edited out, it simply did not exist.¹³¹

On May 21, 2008, the appellate court handed down its decision, noting ruling. It noted “inexplicable inconsistencies and contradictions in the explanations by Charles Enderlin” (whose appearance in court had been his first sworn testimony in the matter). Judge Laurence Trebucq concluded that Karsenty had not defamed France 2. To the contrary, the accumulated evidence of multiple documentaries, articles and books had proven that – in the process of broadcasting a story that shocked and incited much of the world – a veteran journalist, his cameraman, and a prestigious French media institution had demonstrated gross dereliction and dishonesty.¹³²

The court had seen the un-broadcast footage from Netzarim Junction showing Palestinian Arabs staging injuries, faking falls, and racing ambulances to bogus rescues. It noted contradictions and omissions concerning the Israeli military’s line of fire in relation to the al-Duras’ location, as well as visible movement by the boy after having been pronounced dead. It questioned the provenance of the injuries to the father, and the absence of blood in the wake of ostensibly blistering gunfire. And it referred to Enderlin’s repeated claim that he had cut the last seconds of footage of the boy’s death to spare audiences from witnessing his final bloody “agony.”¹³³

The court concluded that Karsenty had acted in good faith as a media commentator and that, although the hoax could not be definitively proven, he had presented a “coherent body of evidence.”¹³⁴

Karsenty had won his appeal, but the journalistic war was far from over.

Despite the clarity and definitiveness of the court’s ruling, the press rallied around Enderlin. In less than a week, a petition on his behalf appeared in *Le Nouvel Observateur*, a prominent French newsmagazine, which called Karsenty’s exhaustively documented case a “seven- year hate-filled smear campaign” aimed at destroying Enderlin’s “professional dignity.” It flatly declared that Muhammad al-Dura had been killed “by shots coming from the Israeli position.” It said that the court had granted “equal credibility to a journalist renowned for his rigorous work, and to willful deniers ignorant of the local realities and with no journalistic experience.”¹³⁵

The petition was signed by over 300 journalists. Among them was Jonathan Randal, a 75-year-old former *Washington Post* foreign correspondent based in Paris, who was quoted as saying he saw in this case a dangerous American trend of “vindictive pressure groups interfering with news organizations,” which had now unfortunately crossed the Atlantic:

Americans have been under the gun of such people for some time, but France used to be free of this kind of thing. [These groups] are paranoid, they’re persistent, they never give up, they sap the energy of good reporters. I can’t imagine how much money France 2 has spent defending this case. Charles Enderlin is an excellent journalist~ I don’t care if it’s the Virgin Birth affair, I would tend to believe him. Someone like Charles simply doesn’t make a story up.¹³⁶

Similarly, Denis Jeambar and Daniel Leconte, two seasoned reporters from *Le Figaro*,

thought that Enderlin was still the best reporter currently in the Near East. ¹³⁷ Jean-Yves Camus, a political scientist and expert on radical Islam, was similarly dismissive of the criticism: “Guy sends him pictures from Gaza, tells him the Israelis shot the kid, he believes him – I mean, even the Israeli Defense Forces spokesman believed it~”¹³⁸

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By virtually any traditional journalistic standards, this case was a landmark decision which should have been reported and commented upon by journalists and media lawyers around the world. Yet there was not a word in any major American newspaper, including the *New York Times* -- whose masthead famously purports to publish “All the News That’s Fit to Print.” (Ironically, when former *Times* executive director Abe Rosenthal was eulogized two years earlier he was lauded for his fierceness in confronting entrenched institution – and for saying: “When something important is going on, silence is a lie.”¹³⁹

Was Karsenty’s stunning victory – in a case in which he had accused Enderlin, a renowned journalist, of having aided and abetted the airing of “a faked death,” a “hoax,” and a “fraud” – not worthy of publication? Was it not worth an editorial about the global “anger and hate” sown by Enderlin and his cameraman, in spawning the false, incendiary allegations in the al-Dura case against Israel? Was it not “news that’s fit to print”?¹⁴⁰

The *Times* was not alone in ignoring Karsenty’s victory for free media criticism, in what has been termed a blood libel against the state of Israel. The mainstream media in France and elsewhere were conspicuously silent. There was nothing in *Le Soir*, *Le Monde*, or *Figaro*, nor was there any report on French television. ABC ran a short (190 word) story from Reuters, but it was not even mentioned on FOX, CNN, or MSNBC, nor in the *International Herald Tribune*, the *Washington Post*, or the *Los Angeles Times*.¹⁴¹

The *Wall Street Journal* did comment in passing that it is “hard to exaggerate the significance” of the court decision that “called the [al-Dura] story into doubt.”¹⁴²

Anti-Semitic Incidents

Anti-Semitic incidents occur with such regularity in France today that it might be understandable that not every one of them is widely reported. Those which elicit comments from the government, however, should not escape notice.

In June of 2008, a 17 year-old boy named Rudy Haddad was walking in a larger Jewish *arrondissement* in Paris, wearing a skullcap, when he was set upon by 15-30 “African immigrants” and beaten brutally. Although French President Nicolas Sarkozy told reporters that he was “particularly shocked by what happened to a young French boy, on the pretext that he was wearing a kippah” and various representatives of the French Jewish community denounced the crime as anti-Semitic, other French officials declined to characterize the incident as anti-Semitic.

The case was ignored by much of the media.¹⁴³

Palestinian Textbooks

Similarly, few Americans or Europeans are aware of the pervasive anti-Israel propaganda to be found in Palestinian textbooks. Their ignorance may be attributed at least in part to the paucity of coverage by major elements of the Western press. Related stories, such as the fact that Arab maps do not show Israel, are likewise unreported.

Nor is there much comment about the fact that young Arab students are fed a constant diet of anti-Western propaganda, such as the heroic deeds of former Egyptian president Gamal Abdel Nasser. No mention is made of Egypt’s defeat in the Six-Day War or of Nasser’s

repressive rule. Palestinian youngsters are instructed instead that “the Jews are wickedness in its very essence.”¹⁴⁴

Maltreatment of Journalists

One might expect that the jailing of a fellow journalist for expressing an opinion would receive ample media coverage – but that has not been the case for Salah Uddin Shoaib Choudhury, the Bangladeshi Muslim editor of the *Weekly Blitz*, an English-language newspaper published in the capital city of Dhaka.

Choudhury had written critically about the rise of radical Islamists in Bangladesh, urged the establishment of diplomatic relations with Israel, and advocated interfaith dialogue based on religious equality. He was arrested in November 2003 at Dhaka’s international airport just prior to boarding a flight to the Holy Land, where he had been scheduled to deliver an address on promoting understanding between Muslims and Jews. Bangladesh does not recognize Israel – Choudhury’s visit there would have been the first by a Bangladeshi journalist – and authorities charged him with anti-Islamic activity. He.¹⁴⁵

According to witnesses, the police ordered all employees out of the newspaper’s offices, ransacked the premises, and interrogated Choudhury without allowing him any communication with friends, family, or legal counsel. He was repeatedly called a “Zionist spy and agent of the Jews.” His protestations that this harassment was contrary to an understanding between Bangladesh and the United States (which the Bangladeshi government had said it would honor) were ignored. For the next seventeen months, he was held in prison, during which time he was tortured.¹⁴⁶

Choudhury was finally released after an intense campaign for his freedom by Richard Benkin, an American activist from Chicago, who had solicited the support of Rep. Mark Kirk (R- IL). But he still faced charges that included blasphemy, sedition, and espionage. For the past five years, he has been subjected to various other forms of intimidation and harassment. (Two years ago, the offices of his newspaper were the target of an attempted bombing by unknown assailants.)¹⁴⁷

In 2005 the writers’ group PEN USA presented him with its “Freedom to Write” Award “in recognition of his commitment to courageous journalism under extreme adversity.” A year later the American Jewish Committee gave him its Moral Courage Award. (The Bangladesh government prohibited him from traveling to the United States to receive the honor.)¹⁴⁸ In August of 2008, after many delays, Choudhury’s trial began. He had been accused of anti-Islamic activity for having “praised Jews and Christian.” If convicted, he could be sentenced to death.¹⁴⁹

With but few exceptions, the story of Shoaib Choudhury has been almost totally ignored by the Western press.¹⁵⁰

The reasons for this failure are unclear, although the theory advanced by Benkin – that the absence of coverage is a direct result of Choudhury’s pro-Israel slant – has not been challenged.¹⁵¹

Other Unreported Events

Other newsworthy events in the Middle East that have gone virtually unreported include:

* The recent challenge in the United States Senate to an aid bill for Egypt and the

Palestinian Authority. Sen. Mitch McConnell (R-Ky.) questioned the wisdom of giving \$75 million to Palestinians in the West Bank and Gaza when there was no end in sight to their violent confrontation with Israel. He noted that in Egypt, “government-sponsored newspapers support Adolf Hitler and incite violence against Jews and Israel. Is this kind of relationship worth the request of \$2 billion?”¹⁵²

* The U.S. State Department continues to offer rewards for the capture of the Palestinian terrorists who have killed eighteen American citizens and wounded many more in Israel, the West Bank, and Gaza. No American newspaper has mentioned these rewards in either editorial or news columns – nor, in fact, that the State Department itself has not publicized them.¹⁵³

* President Bush’s decision at the end of May 2005 to postpone once again moving the U.S. embassy in Israel from Tel Aviv to the capital, Jerusalem – despite his explicit campaign promise that he would begin the process of doing just that “the first day that I am in office” – escaped any editorial notice.¹⁵⁴

Evaluating Different Perspectives

The Arab View

“Violence and terrorism,” Israeli Prime Minister Benjamin Netanyahu once said, “lead to a distortion of the truth.”¹⁵⁵ But both truth and perception depend largely on the beholder. Although the views of Western media by Arab-American journalists are sharply different, they are mostly negative.

In November of 2000, two months after the beginning of what has come to be known as the “al-Aqsa intifada,” the Washington Association of Arab Journalists convened a symposium to discuss how the U.S. media were covering events in the Middle East. The young journalists in the audience from Gaza and the West Bank felt “that the coverage had been terrible.”¹⁵⁶

Especially resented was a *USA Today* report that Palestinian ambulances had been observed delivering stones and fighters to the front lines, and ambulance drivers initiating some of the shooting. But that was what her reporter saw, said senior foreign affairs editor Barbara Slavin. She added her view that no single story or television segment can present the full history of the conflict and hope to do it justice, given the time constraints and intensity of emotions on both sides.¹⁵⁷

Ms. Slavin was quickly challenged by the Arab-American journalists on the panel. Hisham Melhem, the Washington-based correspondent for several Middle East dailies, said that “many reporters covering the intifada have allowed the Israelis to frame and conceptualize the issues, giving them their own words, their own definitions, their own terminologies, their own paradigms.” He asked why the western media referred to Israeli soldiers in the territories as “security forces” instead of “occupation forces.” He wondered why words like “lynching” and “murder” and “barbaric” and “brutal” were used to describe the scene in Ramallah (where the IDF reservists had been murdered),¹⁵⁸ but no such words were used to describe “the Palestinians who were killed and tortured by settlers.” He said that “you talk of Palestinian mobs, but you rarely see any reference to Israeli settlers who do their usual rampaging and acts of violence.”¹⁵⁹

When another panelist, John Alterman of the U.S. Institute of Peace, offered his opinion that “fairness” doesn’t always mean giving equal weight to all positions in a conflict, he was assailed by Hussein Ibish, the communications director for the American-Arab Anti-discrimination Committee. “There is a military occupation in place, a belligerent military

occupation. . . . The American press . . . does not recognize the occupation, and balance is not enough. . . . We need fundamental commitment to honesty.” Mr. Ibish also challenged the report of a bombing of a school bus in Israel: “Well, it wasn’t in Israel. It was in occupied Gaza.” He decried what he called the “outright hate speech against Palestinians” in the American media.¹⁶⁰

The facts, however, appear to suggest otherwise.

In March of 2009, an Israeli-Arab journalist named Khaled Abu Toameh, toured American campuses to describe his experiences as a reporter threatened for doing his job.¹⁶¹ He was surprised at the responses he met. Listening to some students and professors on these campuses, for a moment I thought I was sitting opposite a Hamas spokesman or a would-be-suicide bomber.”¹⁶² He was told, for example, that Israel had no right to exist; that its “apartheid system” is worse than the one that existed in South Africa; that its Operation Cast Lead (December 2008-January 2009) was launched not because of the rockets that the Islamic movement had launched at southern Israeli communities but because Hamas was beginning to show signs it was interested in making peace; that talk about financial corruption in the Palestinian Authority was “Zionist propaganda”; and that Yasser Arafat had done wonderful things for his people, including the establishment of schools, hospitals and universities.¹⁶³

On one campus he was called a “mouthpiece for the Zionists” because he had said that Israel has a free press. On another, posters promoting his appearance were defaced by swastikas. What struck me more than anything else was the fact that many of the people I met on the campuses supported Hamas and believed that it had the right to ‘resist the occupation’ even if that meant blowing up children and women on a bus in downtown Jerusalem. I never imagined that I would need police protection while speaking at a university in the U.S. I have been on many Palestinian campuses in the West Bank and Gaza Strip and I cannot recall one case where I felt intimidated or where someone shouted abuse at me.¹⁶⁴

According to Toameh, in the Oslo Years Arafat didn’t build one housing unit for refugees, one road, one University or College; one hospital or clinic – he only managed to build a casino in Jericho (right across from a refugee camp).

At various times during the intifada Palestinians have claimed that Israel was strangling them by cutting off electricity to the Gaza Strip – a charge widely reported in the world’s media and supported by photographs despite evidence to the contrary.¹⁶⁵ Toameh was one of few Arab journalists who reported that Hamas staged blackouts to support their claims. He said he was frequently placed in life-threatening situations by Yasir Arafat’s Palestinian Authority (PA). He noted that at least twelve Palestinian journalists had been attacked by masked men in a four-month period in early 2004 in what appeared to be an organized campaign to intimidate the media. He told about a photographer working for *Agence France-Presse* who had his arms broken by a masked man in Ramallah. “Agence France-Presse did not do anything about this attack, but a great outcry is raised when Israeli soldiers allegedly harass journalists in the territories.”¹⁶⁶

While a student at the Hebrew University in Jerusalem, Toameh worked for the Palestinian Liberation Organization’s official newspaper *Al Fajr* (The Dawn). There he saw firsthand the lack of journalistic freedom in Gaza. Later he was censured for his outspoken and critical views of the Palestinian media,¹⁶⁷

A controlled empirical study by Yariv Tsfati concluded that hostile Arab perceptions of Israel, and their concomitant social alienation, were generated and nurtured by negative Palestinian media. Exposure to mainstream Israeli media, on the other hand, did not.¹⁶⁸

Opposing Perceptions

The view propounded in this article – that the media often reflect subtle and overt biases against Israel – is by no means universal. Various observers suggest quite the opposite – that to ascertain the facts about what goes on in Gaza one should look at the *Palestine News Network* and *Al Jazeera*.¹⁶⁹

Readers, of course, must be able to judge credibility for themselves.

For example, a Palestinian-American (in the course of accusing American media of being too pro-Israel) recently told Fox News that the al-Qaeda organization should be regarded as no more than a “nuisance” that serves the interests of Israel. The author of that statement is Neal AbuNab, whose book *The War on Terrorism and Democracy* proclaims that “The road to stability and peace in the Middle East starts with ending the occupation of Iraq and Palestine.”¹⁷⁰

Greg Philo, a professor at Glasgow University, is author of a book entitled *Bad News From Israel*, which seeks to reveal how television viewers in the UK have fallen victim to a dominant bias in favor of Israel, particularly by the BBC.¹⁷¹ The authors draw upon the writings of Avi Shlaim, an Israeli historian who accuses Israel and Jordan of collaborating to prevent the establishment of a Palestinian state, and whose work has been discredited by scholars.¹⁷²

According to *Palestine Media Watch*, Palestinian newspapers often publish heavily biased anti-American and anti-Israel articles. The attacks on the World Trade Center and Pentagon in September of 2001 were characterized as an “earthquake” (implying they were a natural disaster), which caused Americans to “revise their thinking about foreign policy and . . . take a realistic look at what is happening on the planet. They view themselves as its master, but actually they have discovered that there has been a huge build-up of hatred against them.”¹⁷³ In 2002, political cartoons depicted George Bush and Tony Blair as Nazis and portrayed the U.S. “War on Terror” as a cover for American policy aimed at controlling Arab oil.¹⁷⁴

If Americans Knew is a website that claims to expound the true history of Palestine (expulsion of the Arabs), to document Israeli abuses of human rights (including strip searches and human organ trafficking), and to analyze the media coverage of “Israel/Palestine” (pro-Israel “deadly distortions” by the Associated Press, the major American networks, and National Public Radio).¹⁷⁵ The website is characterized by harsh anti-Israeli charges, which parrot long-discredited claims such as that Israel attacks Palestinians with “mysterious poison gas,” call Israel an “apartheid nation,” describe Palestinian violence as a “legitimate right and . . . moral duty,” and refer to the founding of Israel as the start of a “holocaust.”¹⁷⁶

It is important to recognize that any analysis of media bias should evaluate both reporters and protagonists in conflict, as well as measure them against coverage by other media.¹⁷⁷

Responses from the Media

David Hoffman, the *Washington Post's* assistant managing editor for foreign news, has claimed that C.A.M.E.R.A. “is an interest group which lobbies for one point of view” – by which

he meant pro-Israel news coverage. Hoffman asserts that “if we covered the conflict as they [C.A.M.E.R.A.] demanded, we would indeed be biased.”¹⁷⁸

National Public Radio host Robert Siegel responded with similar anger to criticism of his coverage in a column by C.A.M.E.R.A.’s executive director Andrea Levin that ran in the *Jerusalem Post*: “My sin is evidently acknowledging both the Palestinian and Israeli views of the security barrier. To summarize my comments as she did is an example of editing that is unworthy of a serious journalist. . . . Ms. Levin is entitled to her opinions and to refrain from supporting public radio. She is not entitled to publish defamatory lies about other people’s work the name of ‘accuracy.’”¹⁷⁹

In a lengthy exchange, Levin and Siegel took issue with various statements made by each. Prominent among them were comments about Israel’s “security fence.” Siegel had reported that, “Around Gaza, there’s a fence and there has been for several years, and the Israelis link their confidence and disengagement to the presence of these barriers which they hope will limit the possibility of people getting into Israel to commit violent acts.”¹⁸⁰

Levin responded in kind:

This is indicative of Siegel-talk. It tilts, dodges and omits. The Israelis don’t merely “hope” the barriers will “limit the possibility” of attacks. The fences have proven their effectiveness. As is well-known, the Gaza fence has been highly successful in containing infiltrators from that area, and even the partially constructed fence in the West Bank is credited with helping to radically reduce terrorist penetrations into Israel. This is also well-known. Why the obfuscation on an entirely clear cut point? Again, for Israelis the fence has had an important, life-saving, beneficial impact, but the Palestinians despise the structure. Siegel skews to the latter.¹⁸¹

An academic case study of the *Philadelphia Inquirer* to evaluate charges of anti-Israel bias found that the paper’s Mideast coverage was generally balanced, in that both parties had a roughly equal percentage of positive, neutral, and negative coverage.¹⁸²

In the absence of other legal remedies or sanctions for misleading news and opinion, readers must rely on the integrity of journalists to abide by their own ethical standards requiring fairness and balance.

Summary and Conclusion

The communications media play a central role in reporting and commenting upon fast-moving events in the Middle East, even influencing the occurrence and evolution of the events themselves. Thus they must be both countenanced and held accountable – especially in a democracy, where they are accorded freedom and a great deal of latitude.

But editorial choices – of words, photographs, stories to cover, placement, emphases – do matter. Reporters, editors, and publishers should at once bear responsibility and exercise transparency. They should not hesitate to apply the terms “terrorist,” “militant,” “settlements,” “occupancy,” and “equivalency” fairly and in context. Newspapers ought to post on their web-sites their sources and methodology for delivering information (similar to the way that medical articles are supported by data and methodology). All media should be subject to regular appraisals and evaluations.

While it may be difficult if not impossible to achieve total objectivity in reporting the news, a sense of balance and fairness should be attainable. Fairness does not mean avoiding

offense to any party, it means fairly – accurately – covering the substance of the news. Likewise, balance does not mean a mandatory numerical equality of sources from each side, but rather relying on relevant, authoritative sources to convey a balanced view of the issues at hand. The same should be true of editorial comment. Opinion worth publishing should be well-informed opinion. All reputable journals and their contributors should abide by the standards that they themselves promulgate.

It is incumbent upon everyone in a free society to insist that these standards be recognized, maintained,

¹ “Congress shall make no law . . . abridging the freedom of speech, or of the press.” U.S. Const. amend. I.

² See *infra* notes 155-177 and accompanying text.

³ See Yariv Safati, *Hostile Media Perceptions, Presumed Media Influence, and Minority Alienation: The Case of Arabs in Israel*, *Journal of Communication* 57 (2007).

⁴ See <http://www.quotedb.com/quotes/2912>.

⁵ See Amy Gajda, *Uncovering the Press Coverage that led to the “Right of Privacy,”* 2008 Mich., St. L. Rev. 35 and Robert M. O’Neil, *Tainted Sources: First Amendment Rights and Journalistic Wrongs*, 4 Wm. & Mary Bill of Rts. J. 1005 (1996).

⁶ *Rosenblatt v. Baer*, 383 U. S. 75 at 95 (1966).

⁷ See web-site of First Amendment Center, (http://www.firstamendmentcenter.org/about.aspx?item'about_fac).

⁸ Commission on Freedom of the Press, *A Free and Responsible Press* (University of Chicago Press, 1947) (“Hutchins Report”). See also Robert E. Dreschel, *Media Malpractice: The Legal Risks of Voluntary Social Responsibility in Mass Communications*, 27 Duq. L. Rev. 237 (1989), quoting Commission on Freedom of the Press: *A Free and Responsible Press* 18 (1947), and Jeff Storey, *Does Ethics Make Good Law? A Case Study*, 19 *Cardozo Arts & Ent L.J.* 467 (2001).

⁹ Todd F. Simon, *Libel as Malpractice: News Media Ethics and the Standard of Care*, 53 *Fordham L. Rev.* 449 (1984).

¹⁰ 4 ADLAI E. STEVENSON, *THE ONE-PARTY PRESS, IN THE PAPERS OF ADLAI E. STEVENSON* 75, 78 (Walter Johnson ed., 1974) (“The free press is the mother of all our liberties and of our progress under liberty. ”). See also Junius, *Dedication to the English Nation*, in *THE LETTERS OF JUNIUS* 7, 8-9 (John Cannon ed., Oxford Univ. Press 1978) (1772) (“Let it be impressed upon your minds, let it be instilled into your children, that the liberty of the press is the palladium of all the civil, political, and religious rights. . . . ”); Edmund Randolph, *Essay on the Revolutionary History of Virginia*, reprinted in 44 *Va. Mag. of Hist. & Biography* 43, 46 (1936) (stating that freedom of the press was one of “the fruits of genuine democracy and historical experience ”).

¹¹ Charles Beard, *St. Louis Post-Dispatch Symposium on Freedom of the Press* 13 (1938) (quoted in Commission on Freedom of the Press, *A Free and Responsible Press* 131 (Univ. of Chicago Press 1947)).

¹² See, e.g., W.O. DOUGLAS, *AN ALMANAC OF LIBERTY* 362 (1954), and DAVID N. MAYER, *THE CONSTITUTIONAL THOUGHT OF THOMAS JEFFERSON* 166-84 (Univ. Press of Virg. 1994).

¹³

Thomas Jefferson, *First Inaugural Address* (Mar. 4, 1801), in *THE LIFE AND SELECTED WRITINGS OF THOMAS JEFFERSON* 297, 300 (Adrienne Koch & William Peden eds., 1993). See also Douglas, *supra* note 12 at 362. Justice Douglas naturally interpreted Jefferson’s meaning as in accord with his own absolutist stance. But the argument made by the state in favor of any

given abridgment of speech is always that social peace and security is being threatened.
14

Gerald Baldasty, *Objectivity and Journalism*, alt.philosophy, http://groups.google.com/group/alt.philosophy/browse_thread/thread/d0b7ca0d123c04c4. For a critique of the consequences of objective journalism, see BEN H. BAGDIKIAN, *THE MEDIA MONOPOLY* (Beacon Press, 1997). See also Brent Cunningham, *Re-thinking Objectivity*, *Columbia Journalism Review* (2003), <http://cjrarchives.org/issues/2003/4/objective-cunningham.asp>.

15 Linda L. Berger, *Shielding the Unmedia: Using the Process of Journalism to Protect the Journalist's Privilege in an Infinite Universe of Publication*, 39 *Hous. L. Rev.* 1371 (2003).

16 Streckfuss, R. *Objectivity in Journalism: A Search and a Reassessment*, 67 *Journalism Quarterly* 973 (1990).

17 See Michael Ryan, *Mainstream News Media, an Objective Approach, and the March to war in Iraq*, 21 *Journal of Mass Media Ethics* 4 at 5, 24 (2006/

18 Berger, *supra* note 15.

19 Ryan, *supra* note 17.

20 JAY ROSEN, WHAT ARE JOURNALISTS FOR? 216 (1999). See also Matthew C. Ehrlich, *Hollywood and Journalistic Truth-telling*, 19 *Notre Dame J. L. Ethics & Pub Pol'y* 519 (2005)

21 See *infra* notes 53-54 and accompanying text.

22

This has been the subject of much recent debate and discussion. See, e.g., *Rhetorica* (Fall, 2009), available at <http://rhetorica.net/archives/3145.html>. See also Ryan, *supra* note 17 at 6.

23

The term is attributed to Edmund Burke (1729 - 1797), a British politician. See <http://www.campwood.com/FourthEstate.htm>.

24

Some extend this standard to journalists' personal lives, prohibiting them from getting involved in political activities, which necessarily requires taking a stand. For example, former *Washington Post* executive editor Leonard Downie, Jr. has stated that his newspaper maintains a code of ethics that forbids reporters and editors from all political activities except voting. Downie himself says he decided to stop voting when he became the ultimate gatekeeper for what is published in the *Post*. See Leonard Downey, Jr. <http://www.washingtonpost.com/wp-dyn/articles/A59087-2004Sep29.html>.

25 Baldasty, *supra* note 14.

26

DAVID MINDICH, *JUST THE FACTS: HOW ~OBJECTIVITY~ CAME TO DEFINE AMERICAN JOURNALISM* (1998).

27

Examples of what has come to be called advocacy journalism are the writings of Upton Sinclair, Lincoln Steffens, Tom Wolfe, and Hunter Thompson.

28 See Michael Ryan, *supra* note 17.

29 See definition at Aristotle's Golden Mean, available at http://en.wikipedia.org/wiki/Golden_mean_%28philosophy%29

30 See essay on Kantian ethics, available at <http://philosophy.lander.edu/ethics/kant.html>.

31 See definition of Kant's veil of ignorance, available at <http://www.answers.com/topic/veil-of-ignorance-1>.

See Preamble, Code of Ethics of the Society of Professional Journalists, at <http://www.spj.org/ethicscode.asp>. The SPJ Code of Ethics is voluntarily embraced by thousands of writers, editors and other news professionals. The present version of the code was adopted by the 1996 SPJ National Convention, after months of study and debate among the Society's members.

33 *Id.*

34

The code elaborates on this standard as follows: Journalists should –
 test the accuracy of information from all sources and exercise care to avoid inadvertent error. Deliberate distortion is never permissible; diligently seek out subjects of news stories to give them the opportunity to respond to allegations of wrongdoing; identify sources whenever feasible. The public is entitled to as much information as possible on sources' reliability; always question sources' motives before promising anonymity. Clarify conditions attached to any promise made in exchange for information. Keep promises; make certain that headlines, news teases and promotional material, photos, video, audio, graphics, sound bites and quotations do not misrepresent. They should not oversimplify or highlight incidents out of context; never distort the content of news photos or video. Image enhancement for technical clarity is always permissible. Label montages and photo illustrations; avoid misleading re-enactments or staged news events. If re-enactment is necessary to tell a story, label it; avoid undercover or other surreptitious methods of gathering information except when traditional open methods will not yield information vital to the public. Use of such methods should be explained as part of the story; never plagiarize; tell the story of the diversity and magnitude of the human experience boldly, even when it is unpopular to do so; examine their own cultural values and avoid imposing those values on others; avoid stereotyping by race, gender, age, religion, ethnicity, geography, sexual orientation, disability, physical appearance or social status; support the open exchange of views, even views they find repugnant; give voice to the voiceless; official and unofficial sources of information can be equally valid; distinguish between advocacy and news reporting. Analysis and commentary should be labeled and not misrepresent fact or context; distinguish news from advertising and shun hybrids that blur the lines between the two; and recognize a special obligation to ensure that the public's business is conducted in the open and that government records are open to inspection. *Id.*

35

Thus they must show compassion for those who may be affected adversely by news coverage; use special sensitivity when dealing with children and inexperienced sources or subjects; be sensitive when seeking or using interviews or photographs of those affected by tragedy or grief; recognize that gathering and reporting information may cause harm or discomfort. Pursuit of the news is not a license for arrogance; recognize that private people have a greater right to control information about themselves than do public officials and others who seek power, influence or attention. Only an overriding public need can justify intrusion into anyone's privacy; show good taste. Avoid pandering to lurid curiosity; be cautious about identifying juvenile suspects or victims of sex crimes; be judicious about naming criminal suspects before the formal filing of charges; and balance a criminal suspect's fair trial rights with the public's right to be informed. *Id.*

36

They must avoid conflicts of interest, real or perceived; remain free of associations and activities that may compromise integrity or damage credibility; refuse gifts, favors, fees, free travel and special treatment, and shun secondary employment, political involvement, public office and service in community organizations if they compromise journalistic integrity; disclose unavoidable

conflicts; be vigilant and courageous about holding those with power accountable; deny favored treatment to advertisers and special interests and resist their pressure to influence news coverage; and be wary of sources offering information for favors or money; avoid bidding for news. *Id.*

37

Thus they should clarify and explain news coverage and invite dialogue with the public over journalistic conduct; encourage the public to voice grievances against the news media; admit mistakes and correct them promptly; expose unethical practices of journalists and the news media; and abide by the same high standards to which they hold others. *Id.*

38

See New York Times Code of Conduct, paragraph 25, <http://www.nytc.com/press/ethics.html>.

39

See National Union of Journalists Code of Conduct (paragraphs 4 and 12), <http://media.gn.apc.org/nujcode.html>.

40

See National Syndicate of French Journalists (adopted by the National Syndicate of French Journalists in 1918 and revised and completed by the Syndicate in 1938), <http://www.ijnnet.org/Director.aspx?P'Ethics&ID'8299&LID'1>.

41

Section 1, German Press Code, EthicNet, http://ethicnet.uta.fi/germany/german_press_code. In 2001, Germany hosted a conference on The Ethics of Journalism . . . in the Islamic-Western Context, which noted many signs of a common ground between journalists of Islamic and Western countries. See http://www.journalism-islam.de/con_introduction.htm.

42

Charter of Duties of Journalists, National Federation of the Italian Press, <http://www.ijnnet.org/Director.aspx?P'Ethics&ID'8323&LID'1>.

⁴³ Code of Ethics (Society of Professional Journalists, Sigma Delta Chi 1973), *reprinted in* W. Rivers, W. Schramm & C. Christians, at 291-94 app. A. See also Todd F. Simon, *Libel as Malpractice: News Media Ethics and the Standard of Care*, 53 Fordham L. Rev. 449 (1984).

⁴⁴ Many commentators have commented upon this subject. See, e.g., Rodney A. Smolla, *Report of the Coalition for a New America: Platform Section on Communications Policy*, 1993 U Chi Legal F 149; Lillian R. BeVier, *Some Anxious Thoughts about Utopian Dreams: A Reply to Professor Smolla*, 1993 U Chi Legal F 187; and LEE C. BOLLINGER, *IMAGES OF A FREE PRESS* (University of Chicago Press, 1991).

⁴⁵ See, e.g., http://agonist.org/ian_welsh/20060714/pro_israeli_bias_in_us_media; <http://www.mediamouse.org/news/2008/12/press-coverage.php>; and <http://www.aim.org/media-monitor/pro-israel-media-bias>. See also *infra* notes 169-177 and accompanying text.

⁴⁶ The thought (“Everyone is entitled to their own opinion, but not their own facts.”) has been attributed to the late Senator Daniel Patrick Moynihan. See <http://haecus.wordpress.com/2008/03/21/everyone-is-entitled-to-their-own-opinion-but-not-their-own-facts/>

47

As Mark Twain once put it, “Get your facts first, and then you can distort them as much as you please.” See <http://www.best-quotes-poems.com/facts-quotes.html>.

48

For examples of alleged “moral equivalency” in Middle East reporting, see C.A.M.E.R.A. at <http://www.google syndicated search.com/u/camera?domains'camera.org&site search'camera.org&q'moral+equivalency>.

⁴⁹ See Stephanie Guttman, *Lights, Camera, Intifada: the Violence in the Mideast Has Become a War of Images, in Which the Press Is the Key to Victory*, *The Weekly Standard*, January 1, 2001 at p. 26.

⁵⁰ See, e.g., Larry Derfner, *Tit for Tat, Mr. President*, *Jerusalem Post*, July 30, 2009 at p. 15; Gershon Baskin, *creating A Culture of Peace in Israel and Palestine*, *Jerusalem Post*, April 8, 2008 at p. 15; and Yaakov Katz, *Haniyeh Operated Command Center Inside Shifa Hospital*, *Jerusalem Post*, April 23, 2009 at p. 3.

⁵¹ Tom Fiedler, *Handle With Care: Words Like 'Conflict,' 'Terrorist,'* *Miami Herald*, January 4, 2004.

⁵² In November 2003 the Associated Press posted a list of “recent terror attacks around the world,” which cited fifteen incidents during the previous five years. In that period, more than 800 Israelis were murdered in terrorist attacks, but not one of the incidents in Israel made the list. *WorldnetDaily*, (November 24, 2003). Similarly, when AP released its Year in Photos 2003, six of the 130 photos chosen related to human suffering in the Israeli-Palestinian conflict. All six were of Palestinians. See Mitchell G. Bard, *Myths and Facts Online: The Media*, available at <http://www.jewishvirtuallibrary.org/jsourcemyths/mf23a.html#27>.

⁵³ See BBC Editorial Guidelines, available at <http://www.bbc.co.uk/guidelines/editorialguidelines/advice/terrorism/language/ourapproach.shtm>

⁵⁴ Andrea Levin, C.A.M.E.R.A., *Eye on the Media: The BBC Goes to War*, March 30, 2001, http://www.camera.org/index.asp?x_context'4&x_outlet'12&x_article'335.

⁵⁵ CHARLES W. FREEMAN, *THE DIPLOMAT'S DICTIONARY* 379 (1994). For a list of other definitions, see Alex Schmid, *War Crimes Research Symposium: “Terrorism on Trial”: Terrorism - The Definitional Problem*, 37 *Case Western Reserve Journal of International Law* 375 (2005).

⁵⁶ Alex Safian, *NPR's Terror Problem: When Is A Terrorist A Terrorist?*, *National Review Online*, June 10, 2003, available at <http://article.nationalreview.com/?q=NGRiNGEwOWQzYjhmY2VkMThjN2M4Y2UyZDdiZDM5YmM=>.

⁵⁷ See http://www.camera.org/index.asp?x_context=4&x_outlet=28&x_article=487.

⁵⁸

NPR's longtime reporter in the region, Linda Gradstein, has often been pilloried as overly sympathetic to the Palestinian position. At first she appeared very willing to be interviewed for an article by the author, to talk either on or off the record; but in the end she was constrained by her bosses back in Washington. They're extremely sensitive about this.

⁵⁹ See C.A.M.E.R.A., at <http://www.google syndicated search.com/u/camera?domains'camera.org&site search'camera.org &q'%22terrorist%22+vs.+%22militant%22>.

⁶⁰

See Eric Rozenman, C.A.M.E.R.A., *Freudian Projection at the Washington Post*, July 11, 2008.

⁶¹ BBC Monitoring Service, June 18, 2008, <http://w3.lexis.com/lawschoolreg/researchlogin08.asp?t'y&fac'yes>.

On the same incident the Associated Press wired a story headlined “Israel Closes Gaza,

Palestinians Fire Mortars” – inaccurately implying that the mortars were in response to the closure, instead of the other way around. Likewise omitted were facts that may have provided context. For example, the cease-fire agreement in question applied only to the Gaza Strip and not to the West Bank, where Israeli forces were free to operate against Palestinian terrorists. The *Guardian* reported that Palestinian “rockets were fired by the militant group Islamic Jihad, which said it was acting in response to the killing of one of its commanders in the occupied West Bank earlier that day.” The paper failed to make it clear that Israeli operations in the West Bank were not in violation of the cease-fire

⁶² Compare, e.g., Robert F. Worth and Nada Bakri, *Deal for Lebanese Factions Leaves Hizbollah Stronger*, New York Times, May 22, 2008 at p. A21 (Those include Hezbollah’s weapons and Lebanon’s relations with Syria, which ended its 29-year military presence here in 2005) and Elias Khoury, *For Israelis, An Anniversary; For Palestinians, A Nakba*, New York Times, May 18, 2008 at p. 13 (Israel’s continued occupation of the remaining portions of Palestine, in the West Bank and Gaza).

⁶³ Isabel Kershner, *Palestinian Rams Construction Vehicle Into Traffic, Killing 3*, New York Times, July 3, 2008 at p. 6.

⁶⁴

The BBC’s coverage of the bulldozer attack elicited an apology from its news editor, who explained his decision not to air footage that showed the killing of the terrorist in the bulldozer, saying that the video images failed to strike the right editorial balance. *Jerusalem Post* columnist Caroline Glick noted that the bulldozer attack was only the second Palestinian attack on Israelis to be preserved on film - the first was the bloody lynching of two IDF reservists in the first days of the second *intifada* in 2000. Both cases, she added, drew apologies from the networks that showed them. “To maintain the narratives the right editorial balance between the demands of accuracy and the potential impact on the program’s audience, is one that engenders the belief that Israel is either morally indistinguishable from the Palestinians, or that Israel is morally inferior to the Palestinians.” Caroline Glick, *The Media and Enduring Narrative*, Jerusalem Post, July 8, 2008 at p. 15.

⁶⁵ According to both the League of Nations’ and the United Nations’ Palestine Mandates, Israel is the legitimate military occupational authority on the West Bank. It is also a legitimate claimant to disputed territory. See Evelyn Gordon, *Israel’s Image – Why the All-Time Low?*, Jerusalem Post, June 8, 2006 at p. 15.

⁶⁶

See

http://www.honestreporting.com/articles/45884734/critiques/new/New_York_Times_6_Month_Study.asp.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰

Compare, e.g., New York Times, March 26, 2001 at p. A10, with St. Louis Post- Dispatch, March 27, 2001.

⁷¹

Ricki Hollander, *Human Interest Stories in New York Times Skewed Toward Palestinians*, C.A.M.E.R.A., May 11, 2006. See also Honest Reporting, *The New York Times: A Year-Long*

Analysis,

http://www.honestreporting.com/articles/45884734/critiques/new/The_New_York_Times_A_Year-Long_Analysis.asp

72

Andrea Levin, *Lobbyists With A Cause*, C.A.M.E.R.A., August 20, 2001.

73

The *Washington Post* and *Los Angeles Times* have provided similar forums.

74 See MATTHEW LEVITT, *HAMAS: POLITICS, CHARITY, AND TERRORISM IN THE SERVICE OF JIHAD* (Yale 2006, noting that Hamas is a unitary group, its “wings” part of the same whole).

75 See Kenneth Lasson, *Is Gilad Shalit on the Radar?*, Baltimore Jewish Times, August 7, 2009 at p. 32.

76

See Griff Witte and Dan Balz, *Obama Ends Mideast Swing With Vow to Back Israel, Peace Talks*, Washington Post, July 24, 2008 at p. A7.

77 See Bret Stephens, *The Sderot Calculus*, Wall Street Journal, February 26, 2008.

78

Israel has always maintained that its military presence is the legitimate result of a successful war of self-defense, pending a final negotiated settlement, and this position has been supported by, among others, the U.S. and British authors of U.N. Security Council Resolution 242 (1967), the keystone of subsequent Arab-Israeli negotiations. A noteworthy comparison: the *Post* has always referred to Syria’s former military occupation of Lebanon as a presence. See, e.g., Alia Ibrahim, *Presidential Election Has Lebanese Parties In A Bitter Struggle*, Washington Post, September 24, 2007 at p. A12.

79 Dan Balz and Griff Witte, *Obama Ends Mideast Swing With Vow To Back Israel, Peace Talks*, Washington Post, July 24, 2008 at p. A7.

80

See Rozenman, *One Land, Two People, and Dozens of Errors*, C.A.M.E.R.A., September 1, 2004, http://www.camera.org/index.asp?x_context'2&x_outlet'38&x_article'813.

81

Id.

82

See, e.g., Scott Wilson, *Hezbollah to Protest U.S. Stance on Lebanon*, Washington Post, March 7, 2005. See also C.A.M.E.R.A., *Now It Can Be Said: Syria-Occpied Lebanon*, available at http://blog.camera.org/archives/2006/07/now_it_can_be_said_syria_occup.html

83 See C.A.M.E.R.A. *Washington Post-Watch: Old Habits Die Hard, If At All*, available at http://www.camera.org/index.asp?x_context=2&x_outlet=38&x_article=1374

84 Eric Rozenman, *Washington Post-Watch: Palestinians vs. Palestinians? The Post Is Mute*, C.A.M.E.R.A., August 5, 2008, http://www.camera.org/index.asp?x_context'2&x_outlet'38&x_article'1520.

85 C.A.M.E.R.A., *NPR Bias Persists*, available at http://www.camera.org/index.asp?x_context=4&x_outlet=28&x_article=281

86 C.A.M.E.R.A., *A Record of Bias: NPR’s Coverage of the Arab-Israeli Conflict*, available at http://www.camera.org/index.asp?x_article=75&x_context=4.

87 C.A.M.E.R.A., *New CAMERA Study Blasts NPR Bias*, February 19, 2001, available at http://www.camera.org/index.asp?x_context=4&x_outlet=28&x_article=85.

88 C.A.M.E.R.A., *A Study in News Manipulation*, November 4, 1992,
http://www.camera.org/index.asp?x_print'1&x_context'6&x_article'212.
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Andrea Levin, *Eye on the Media: The BBC Goes to War*, C.A.M.E.R.A., March 30, 2001,
http://www.camera.org/index.asp?x_print'1&x_context'6&x_article'335.
90

Liz McGregor, *Israel Should Learn from the Boers*, *The Guardian* (London), May 17, 2001 at
p. 21.
91

Solomon, *Hamas Military Wing' One of The Guardian's Useful Links,* Solomonia,
August 13, 2008.
92

William A. Orme, Jr., *A Young Symbol of Mideast Violence*, *New York Times*, October 2,
2000 at p.12. The incident occurred on September 30, 2000. *See also infra* notes 124-142 and
accompanying text.
93

Suzanne Goldberg, *Making of A Martyr*, *London Guardian*, October 3, 2000 at p.2.
94

Kahled Abdullah al-Fayez, *\$100,000 Given to Father of Martyr Child*, *Saudi Gazette*, October
20, 2000.
95

See James Fallows, *Who Shot Mohammad al-Dura?*, *The Atlantic*, June 2003.
96

William A. Orme, Jr., *Israeli Army Says Palestinians May Have Shot Palestinian Boy*, *New
York Times*, November 27, 2000 at p. 8.
97

See Barbara Demick, *Wrong Turn Took Soldier's Into Angry Crowd's Clutches*, *Philadelphia
Inquirer*, October 13, 2000 at p. A1.
98

Judy Lash Balint, *Journalists Describe Constant Palestinian Intimidation*, *EretzYisroel.org*
<http://www.eretzyisroel.org/~jkatz/intimidation.html>.

99 *See* Fallows, *supra* note 95.
100

E.g., the avenue in Cairo where the Israeli Embassy is situated was renamed Muhammad
al-Durrah Street. Orme, *supra* note 96.