



Manual for Arab Journalists

on

Freedom of Information and Investigative Journalism

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ARTICLE 19 welcomes any comments, questions or suggestions related to this report.

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1. INTRODUCTION

While access to information can make significant contributions to a number of issues such as workers' rights, health, and the environment, journalists remain the prime beneficiaries of such legislation. It is axiomatic that an access to information law is key to the functioning of the media and information, the lifeblood of the media.

Indeed, investigative journalism has long been viewed as a natural outcome of a free media. "Watchdog journalism", as media expert Butch Ward puts it, "is at the heart of a newspaper's commitment to public service."¹

“News is something somebody doesn't want printed; all else is advertising.”

---William Hearst

The media's duty to serve as a fourth estate requires investigative reports on the conduct of public officials, cases of corruption, mismanagement or dishonesty in government, and human rights issues among others. To unearth these stories of public interest, journalists must rely on reliable sources and information that must be accessible and can be guaranteed by freedom of information legislation. Indeed, it would be impossible for the media to perform its role of an 'unchained watchdog...keeping the state on a short leash'² without access to documents at the heart of governmental functioning such as budgetary information, policy papers, correspondence with contractors, and information relating to health and the state of the environment, to name but a few examples. Without such access, journalists cannot effectively scrutinize governmental action; they would be condemned to rely on 'leaked' documents, second-hand information or even rumours, laying themselves open to defamation suits or other legal threats along the way.

Freedom of information has a major influence on media in other respects as well. The lack of a legal access to information regime allows government to strategically dominate the flow of official information favouring pro-government media organizations and 'punishing' critical and opposition media by refusing to provide it with information. In such a political climate where there are no enforceable access laws and where the government can select which information to release and whom to release it to, a free media cannot exist and democracy flounders.

In democratic traditions, access to government-held information and investigative journalism is part of the media's modus operandi. In the UK FOI Act's first year of operation, in 2005, hundreds of disclosures were made unearthing vital health and safety scandals, government blunders and extreme security measures. For instance, on March 4, 2005, the Financial Times revealed that the US paid Iraqi opposition leaders millions of dollars for intelligence on Saddam Hussein's regime that were later denounced as flawed information. The previously confidential UK Foreign Office paper whose disclosure had been forced through the FOI Act said the Iraqi National Congress received approximately \$4million per year. These and other, similarly important, disclosures came about as a result of the work of investigative journalists, and would have remained concealed if it were not for them.

¹ (http://www.poynter.org/content/content_print.asp?id=82...)

² Sparks, C. 1986. *The Media and the State* In James Curran et al. *Bending Reality*. London, Pluto.

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In developing countries and emerging democracies, the task of monitoring government and public action and spending is far more difficult, notably because laws to protect freedom of expression, including freedom of the media and access to information, have either not been passed, do not comply with international standards or have not been implemented.

The quasi-impossibility to request access to public information, coupled with the different levels of censorship, including self-censorship, severely hamper the work of investigative reporters in the Arab world.

Since investigative reporting has not traditionally been part of the Arab lexicon, journalists do not always know how to hold officials accountable or how to perform their role as public watchdog. And when they do, they may pay dearly for their pursuit of information.

In most Arab countries, the justification of “national security” may be used to ban certain kinds of news and restrict the release of information to the public, even when no real threat is involved. It is one of the easiest ploys used by regimes to cover up wrong or just wishing to keep journalists at bay.

This adds to pressures faced by reporters, editors, producers, directors, as well as online media professionals who may be harassed, threatened, jailed, kidnapped or killed for covering stories on corruption, nepotism, fraud, safety violations, police brutality or sexual abuse by teachers.

Brainstorm

Off the top of your head, write down as many ways as you can think of how having the right to freedom of information could make your life a better one.

How about this list for a start?

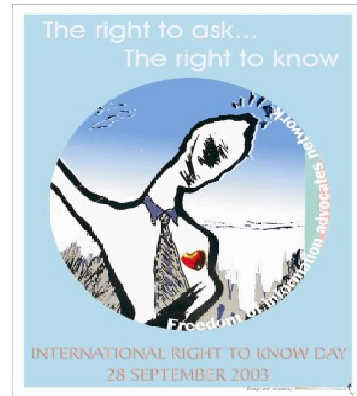
- It will help you to live in a less corrupt and healthier society
- It will help to make sure that your fundamental human rights are respected
- It will help to make the political system in your country more democratic and the government and economy more efficient
- It will lead to better decision-making

Given this unsettling and dynamic media landscape, it is, therefore, important for journalists to familiarize themselves with both international standards and their country’s constitution and laws to know their rights as journalists and citizens, and to advocate for their right to “Freedom of Information”. The following guidelines of freedom of information and investigative journalism aim to equip journalists with basic skills for writing investigative reports and for campaigning for their right to access information.

2. FREEDOM OF INFORMATION: INTERNATIONAL STANDARDS AND DECLARATIONS

International law has long recognised the strong links between freedom of expression, freedom of the media and freedom of information. The starting point is the *Universal Declaration of Human Rights*, adopted in 1948 and the United Nation's flagship human rights document.³ Article 19 of the Declaration states:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.



The UDHR, as a UN General Assembly resolution, is not directly binding on States. However, parts of it, including Article 19, are widely regarded as having acquired legal force as customary international law since its adoption in 1948.⁴

The *International Covenant on Civil and Political Rights* (ICCPR),⁵ a treaty ratified by over 150 States, including many Arab States,⁶ imposes formal legal obligations on State Parties to respect its provisions and elaborates on many of the rights included in the UDHR. Article 19 of the ICCPR guarantees the right to freedom of expression in terms very similar to those found at Article 19 of the UDHR:

- (1) Everyone shall have the right to freedom of opinion.
- (2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.

Both Article 19 of the UDHR and Article 19 of the ICCPR have been interpreted as imposing on States the obligation to enact freedom of information laws. The UN Human Rights Committee, the body established to supervise the implementation of the ICCPR, has long commented on the need for States to introduce freedom of information laws. In its 1994 Concluding Observations on the implementation of the ICCPR in Azerbaijan, for example, the Committee stated that Azerbaijan “should introduce legislation guaranteeing freedom of information...”⁷

³ UN General Assembly Resolution 217A(III) of 10 December 1948.

⁴ See, for example, *Barcelona Traction, Light and Power Company Limited Case (Belgium v. Spain) (Second Phase)*, ICJ Rep. 1970 3 (International Court of Justice); *Namibia Opinion*, ICJ Rep. 1971 16, Separate Opinion, Judge Ammoun (International Court of Justice); *Filartiga v. Pena-Irala*, 630 F. 2d 876 (1980) (US Circuit Court of Appeals, 2nd Circuit). Generally, see McDougal, M.S., Lasswell, H.D. and Chen, L.C., *Human Rights and World Public Order*, (Yale University Press 1980), pp. 273-74, 325-27.

⁵ UN General Assembly Resolution 2200A(XXI), adopted 16 December 1966, in force 23 March 1976.

⁶ Lebanon, Syria, Jordan, Iraq, Iran, Yemen, Bahrain, Kuwait, Lybia, and Egypt have all ratified the ICCPR.

⁷ UN Doc. CCPR/C/79/Add.38; A/49/40, 3 August 1994, under “5. Suggestions and recommendations” (there are no page or paragraph numbers).

In 1995, the UN Special Rapporteur on Freedom of Opinion and Expression⁸ noted:

The right to seek or have access to information is one of the most essential elements of freedom of speech and expression.⁹

He returned to this theme in 1997 and since then included commentary on the right to freedom of information in several of his annual reports. In his 1998 Annual Report, the Special Rapporteur declared that freedom of information includes the right to access information held by the State:

“[T]he right to seek, receive and impart information imposes a positive obligation on States to ensure access to information, particularly with regard to information held by Government in all types of storage and retrieval systems.”¹⁰

His views were unanimously welcomed by the UN Commission on Human Rights.¹¹

The UN Special Rapporteur further developed his commentary on freedom of information in his 2000 Annual Report to the Commission, noting its fundamental importance not only to democracy and freedom, but also to the right to participate and realisation of the right to development.¹² He also reiterated his “concern about the tendency of Governments, and the institutions of Government, to withhold from the people information that is rightly theirs”.¹³ Specifically, the Special Rapporteur laid down a number of general principles concerning freedom of information:

The Special Rapporteur directs the attention of Governments to a number of areas and urges them either to review existing legislation or adopt new legislation on access to information and ensure its conformity with these general principles. Among the considerations of importance are:

- Public bodies have an obligation to disclose information and every member of the public has a corresponding right to receive information; “information” includes all records held by a public body, regardless of the form in which it is stored;
- Freedom of information implies that public bodies publish and disseminate widely documents of significant public interest, for example, operational information about how the public body functions and the content of any decision or policy affecting the public;
- As a minimum, the law on freedom of information should make provision for public education and the dissemination of information regarding the right to have access to information; the law should also provide for a number of mechanisms to address the problem of a culture of secrecy within Government;

⁸ The Office of the Special Rapporteur on Freedom of Opinion and Expression was established by the UN Commission on Human Rights, the most authoritative UN human rights body, in 1993 Resolution 1993/45, 5 March 1993.

⁹ Report of the Special Rapporteur, *Promotion and protection of the right to freedom of opinion and expression*, UN Doc. E/CN.4/1995/31, 14 December 1995, para. 35.

¹⁰ Report of the Special Rapporteur, *Promotion and protection of the right to freedom of opinion and expression*, UN Doc. E/CN.4/1998/40, 28 January 1998, para. 14.

¹¹ Resolution 1998/42, 17 April 1998, para. 2. The Commission was the main UN human rights body; it has recently been replaced by the UN Human Rights Council.

¹² Report of the Special Rapporteur, *Promotion and protection of the right to freedom of opinion and expression*, UN Doc. E/CN.4/2000/63, 18 January 2000, para. 42.

¹³ *Ibid.*, at para. 43.

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- A refusal to disclose information may not be based on the aim to protect Governments from embarrassment or the exposure of wrongdoing; a complete list of the legitimate aims which may justify non-disclosure should be provided in the law and exceptions should be narrowly drawn so as to avoid including material which does not harm the legitimate interest;
- All public bodies should be required to establish open, accessible internal systems for ensuring the public's right to receive information; the law should provide for strict time limits for the processing of requests for information and require that any refusals be accompanied by substantive written reasons for the refusal(s);
- The cost of gaining access to information held by public bodies should not be so high as to deter potential applicants and negate the intent of the law itself;
- The law should establish a presumption that all meetings of governing bodies are open to the public;
- The law should require that other legislation be interpreted, as far as possible, in a manner consistent with its provisions; the regime for exceptions provided for in the freedom of information law should be comprehensive and other laws should not be permitted to extend it;
- Individuals should be protected from any legal, administrative or employment-related sanctions for releasing information on wrongdoing, viz. the commission of a criminal offence or dishonesty, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty or serious failures in the administration of a public body.¹⁴

And, in November 2004, the UN, OSCE and OAS special mandates adopted a Joint Declaration in which they build on the principles outlined above, adding a number of principles on secrecy legislation and the impact it has on journalism, freedom of expression and freedom of information:

- Urgent steps should be taken to review and, as necessary, repeal or amend, legislation restricting access to information to bring it into line with international standards in this area, including as reflected in this Joint Declaration.
- Public authorities and their staff bear sole responsibility for protecting the confidentiality of legitimately secret information under their control. Other individuals, including journalists and civil society representatives, should never be subject to liability for publishing or further disseminating this information, regardless of whether or not it has been leaked to them, unless they committed fraud or another crime to obtain the information. Criminal law provisions that don't restrict liability for the dissemination of State secrets to those who are officially entitled to handle those secrets should be repealed or amended.
- Certain information may legitimately be secret on grounds of national security or protection of other overriding interests. However, secrecy laws should define national security precisely and indicate clearly the criteria which should be used in determining whether or not information can be declared secret, so as to prevent abuse of the label "secret" for purposes of preventing disclosure of information which is in the public interest. Secrecy laws should set out clearly which officials are entitled to classify documents as secret and should also set overall limits on the length of time documents may remain secret. Such laws should be subject to public debate.

The UN Human Rights Committee has also expressed its concerns over the way secrecy laws are sometimes used to restrict freedom of the media. Commenting on a high-profile case in

¹⁴

Ibid., at para. 44.

the United Kingdom in which various newspapers had been banned from publishing information leaked by former secret service employees, the Committee said:

The Committee is concerned that powers under the Official Secrets Act 1989 have been exercised to frustrate former employees of the Crown from bringing into the public domain issues of genuine public concern, and to prevent journalists from publishing such matters.

The State party should ensure that its powers to protect information genuinely related to matters of national security are narrowly utilized and limited to instances where it has been shown to be necessary to suppress release of the information.¹⁵

Earlier, the Committee had issued similar critical comments on state secrets laws in Uzbekistan, recommending that they should be amended and considerably tightened up.¹⁶

One of the key issues in freedom of information law is defining when a public body can refuse to disclose information. Under international law, freedom of information may be subject to only the restrictions stipulated in Article 19(3) of the ICCPR, which states:

The exercise of the rights [to freedom of expression and information] may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary
(a) For respect of the rights or reputations of others;
(b) For the protection of national security or of public order (ordre public), or of public health or morals.

In the context of the right of access to information, this translates into a three-part test, whereby a public body must disclose any information which it holds and is asked for, unless:

1. The information concerns a legitimate protected interest listed in the law;
2. Disclosure threatens substantial harm to that interest; and
3. The harm to the protected interest is greater than the public interest in having the information.¹⁷

1. Legitimate Protected Interest

Freedom of information laws must contain an *exhaustive* list of all legitimate interests on which a refusal of disclosure is based. This list should be limited to matters such as law enforcement, the protection of personal information, national security, commercial and other confidentiality, public or individual safety, and protecting the effectiveness and integrity of government decision-making processes.¹⁸ Exceptions should be narrowly drawn to avoid capturing information the disclosure of which would not harm the legitimate interest. Furthermore, they should be based on the content, rather than the type of document sought. To meet this standard, exceptions should, where relevant, be time-limited. For example, the justification for classifying information on the basis of national security may well disappear after a specific national security threat subsides.

2. Substantial Harm

¹⁵ UN Doc. CCPR/CO/73/UK, 6 December 2001, para. 21.

¹⁶ UN Doc. CCPR/CO/71/UZB, 26 April 2001, para. 18.

¹⁷ See ARTICLE 19's *The Public's Right to Know*, London: 2001, at Principle 4.

¹⁸ *Ibid*

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Once it has been established that the information falls within the scope of a legitimate aim listed in the legislation, it must be established that disclosure of the information would cause substantial harm to that legitimate aim. This is an important element of the test. For example: it is not sufficient for a public official to refuse disclosure merely because that would ‘affect’ or ‘concern’ national security: an actual likelihood of harm must be established.

3. Harm outweighs public interest benefit in disclosure

The third part of the test requires the public body to consider whether, even if disclosure of information causes substantial harm to a protected interest, there is nevertheless a wider public interest in disclosure. For instance, in relation to national security, disclosure of information exposing instances of bribery may concurrently undermine defence interests and expose corrupt buying practices. The latter, however, may lead to eradicating corruption and therefore be in the longer-term public interest. In such cases, information should be disclosed notwithstanding that it may cause harm in the short term. Cumulatively, the three-part test is designed to guarantee that information is disclosed as a rule, and withheld only when this can be clearly justified. If applied properly, this test rules out all blanket exclusions and class exceptions as well as any provisions whose real aim is to protect the government from harassment, to prevent the exposure of wrongdoing, to avoid the concealment information from the public or to preclude entrenching a particular ideology.

3. INVESTIGATIVE REPORTING

Lucinda S. Fleeson authored a booklet to teach investigative reporting entitled “Dig Deep & Aim High”¹⁹, in which she said that this journalistic genre was not limited to exposing corruption and criminal activity, but to stories that explain how systems work or fail, or construct complex narratives.

Common definitions, she wrote, include stories that contain original work, not leaked investigations from law authorities; Show a pattern of systematic problems, not just one isolated incident affecting one individual; right a wrong; explain complex social problems; Reveal corruption, wrongdoing or abuse of power.

As for obstacles faced by investigative reporters, Fleeson said the most common in developing and developed countries is the lack of information, inaccessibility to documents, unwillingness of media owners to publish controversial stories, fear of retribution by political or business interests, threats to personal security, inadequate time to complete assignments, unavailability of budgets for travel and expenses, loneliness, burnout, fear of failure, lawsuits, job loss and the lack of an investigative tradition.

A common mistake in Arab journalistic usage is that “features” and “investigative” articles are often used synonymously. “*Tahqeeq*” (investigation) is mostly used to describe a feature, which covers the human-interest angle of stories. Whereas “*tahqeeq istiqsa’ee*” (investigative report) is the term acceptable by media professionals to explain the form of journalism covered by this manual.

Example from Jordan

To promote the cause of watchdog media, the first independent not-for-profit organization called “Arab Reporters for Investigative Journalism (ARIJ)”¹⁹ was founded by Arab media activists and media organizations in cooperation with the Danish-based International Media Support (IMS).

It is based in Amman and groups professionals from Lebanon, Syria and Jordan who support and finance Arab investigative journalism, and oversee the training of reporters and editors in the skills needed to conduct their assignments.

ARIJ has posted online detailed results of stories written by journalists it has trained. In Jordan, for example, a reporter for the online radio station “Amman Net” uncovered a scam by companies selling water filters that cheated consumers into thinking these products protected consumers from polluted water. Chemical analyses by experts sought by the reporters showed that the tested water was not polluted and that the filters were useless. The reporter also discovered that the government had not brought the fraudulent filter promoters to justice and that bottled water and filter sales companies had established an association to market their wares. The investigations ultimately brought the matter to the attention of consumers who stopped buying the filters and demanded greater accountability by all involved.

¹⁹ Lucinda S. Fleeson, “Dig Deep & Aim High A Training Model for Teaching Investigative Reporting,” International Center for Journalists, Copyright 2000, Washington, D.C.

Where to Begin

Investigative reports may see the light as enterprise stories – those initiated by the journalists themselves as a result of observations, contacts or tips – or could be prompted by editors, but the former is the more likely scenario.

Once a topic has been decided upon, reporters are well advised to secure their media organizations' full support and to work closely with their supervisors to ensure the smooth execution of the operation.

Quite frequently, investigative journalists operate in teams, since the work involved requires long hours, extensive research, and follow-up. Journalists "investigating" unilaterally may find themselves overwhelmed by the volume of material they uncover, the lack of resources, the scarcity of sources, other pressures at work, intimidation, or a combination of these factors. So they would do better to team up with others to create a support system to alleviate the burden.

An equally important factor to the subject matter to be investigated is deciding how much time the reporter and/or news organization can spend on covering the story and how much will be budgeted for such coverage.

While a topic may seem fascinating to the reporter, the editor, publisher or station manager/owner may find it only merits limited attention, or that it could lead to unwanted litigation and therefore avoid delving into very controversial matters or relegate the story to an inside page instead of highlighting it and headlining it on the front. How much weight it deserves is ultimately the editor's call, but a story's placement can be negotiated if it merits greater attention.

Budgets are also sticking points in investigative reporting because stories in this journalistic genre may require major, and often unavailable, funding to be pursued and completed. So journalists have to rely on a detailed plan taking all costs into account over an extended period of time to play it safe travel, accommodations, transport expenses, meals, copying or duplicating documents/videos/audio recordings, shooting footage, insurance, stationery supplies, translators' or fixers' services and other miscellaneous expenses.

Exercise

To investigate or not to investigate--A Role-play Exercise

A key difficulty journalists face with regards to investigating sensitive issues is gaining the approval of the editor. With this in mind, a role-play exercise dividing the group of participants into two teams; the editorial team and the journalist team will serve as an eye-opener to help the journalists envisage some of the opposition they may face and think of ways they can circumvent these objections.

Agree a topic and give the journalists' team some time to come up with a series of arguments to try and convince their editors of the importance of covering the selected topic. The editorial team then will assess its staff's arguments and decide accordingly. The exercise is quite amusing and serves as an ice-breaker.

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While it is difficult to predict how long an investigative report may take or how much it will cost, good estimates may help avoid having to keep badgering the editorial board for constant support.

Supervisors must realize and be convinced that reporters assigned investigative reports may have to leave their regular coverage unattended. So editors will have to decide whether that is worth the time and effort and whether they wish to find temporary replacements for their reporters.

Finally, reporters who initiate investigative reports should not exaggerate the importance of their work or its impact and should certainly not promise more than they can realistically deliver.

In the final analysis, if a story does not live up to its reporter's investigative expectations, it may still be used as a news item or a feature to alert readers, listeners, viewers and browsers to the importance of the subject, and, may be pursued at some future date as a full-fledged investigative story.

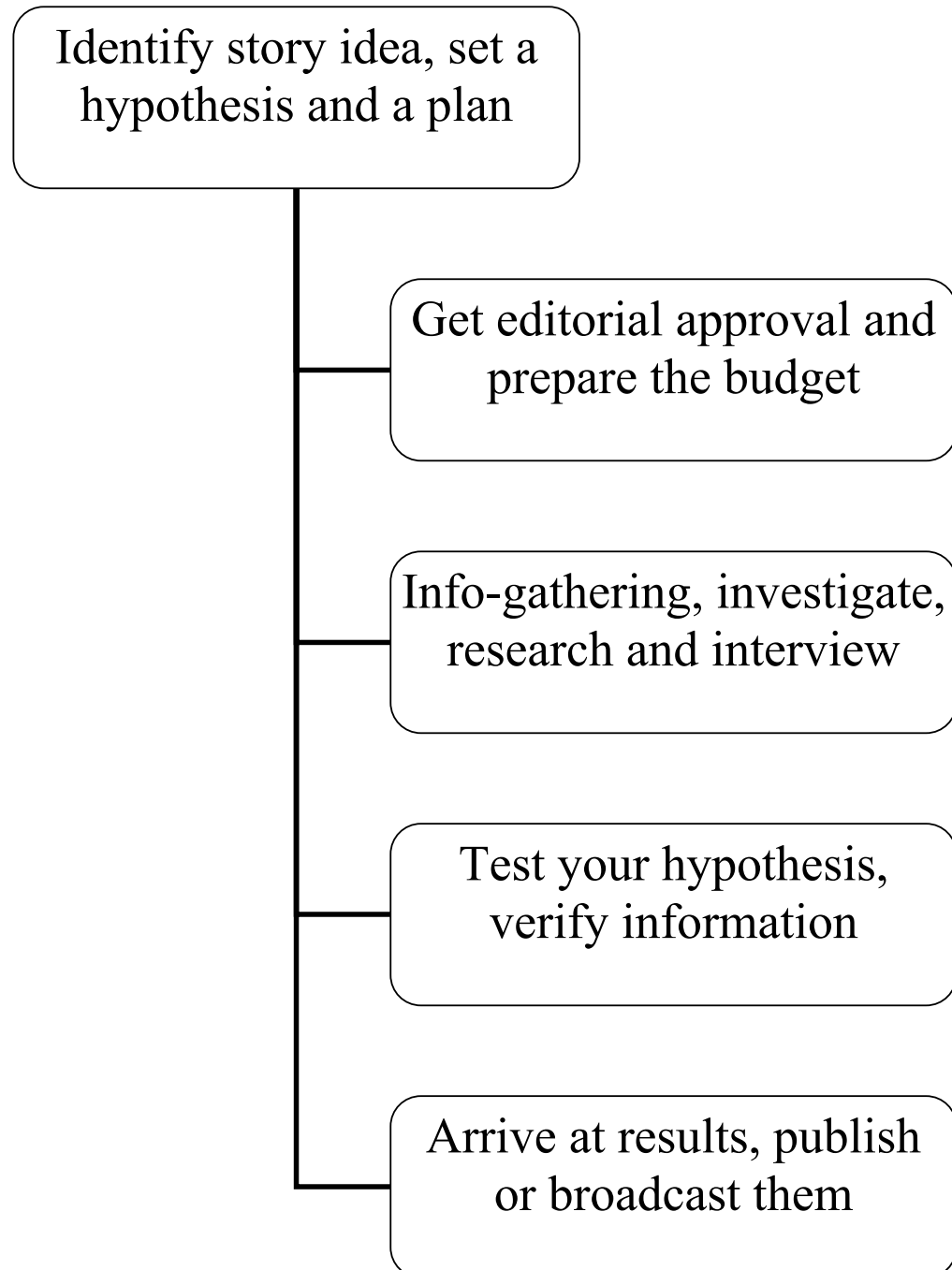
3.1 Principles and methods of Investigative Journalism

How does one go about investigating a story for the media? A key consideration is determining the type of media in which the story will appear. Investigative reports tend to be the purview of print media as they can be given more space and time and don't cost as much to produce, as do those for broadcast media, notably TV.

While channels like "Al Jazeera" have allocated extensive budgets to investigative reports in programs such as "Sirri Lil Ghaya" (Top Secret), not all stations can afford huge outlays. So the likelihood of seeing solid and protracted TV investigations is slim.

Print and online media, therefore, take the lion's share of investigative reports that can be published as one-offs or in serialized form.

Investigative Journalism- A Process



Story ideas

To start, reporters need stories to pursue. To find ideas, reporters may have to rely on **sources** who may volunteer ideas or stories based on information available to them. A reporter, who often has a solid reservoir of contacts, must be able to discern what may be misleading information. **Personal observation and effort** remains key in investigative journalism. While technology has made tracking down data easier, it does not replace human contact, seeing for oneself, hearing first-hand accounts and verifying in person. **Hard data** also tips off journalists to investigate stories. Media reports, specialized publications, advertising supplements in newspapers, cultural events programs, emails, or highway signs and posters can all be good places to start. Ultimately, much can be learned by tracking a person through documents he/she leaves behind: birth certificates, hospital records, real estate sales, purchases, marriage and death certificates, and car registrations. The so-called paper trail, now mostly electronic, is also a good place to start.



Brainstorm

Can you think of examples of interesting stories?

How about finding connections between diseases and deaths, family incomes, unemployment rates, crime rates, educational levels, and population density.

3.2 SOURCES OF INFORMATION

When the reporter bases his/her story on direct observation, the story is a first-hand account. But when the reporter is not on the scene and information is obtained from those who were present, the reporter's story is a second-hand account.

Third-hand accounts reach the reporter after being filtered a number of times. For instance, a reporter may receive information about an official meeting from a staff member.

It is important to identify one's sources of information in as accurate a fashion as possible. In investigative reports, it is imperative that reporters ensure the clarity of their sources to maintain their own credibility and to keep themselves and their sources out of harm's way.

"Whistleblowers"—an integral source

The people who know best what is going on inside any large institution are the people who work there. The information that a government chooses to release to the public may not be the whole truth - it may not even be the truth at all. This is particularly the case where wrongdoing or serious mismanagement is taking place.

That is why it is important that the right to freedom of information includes the right "to blow the whistle". Whistleblowers are officials who, in good faith, release information about wrongdoing in the institution that they work for.

To measure a source's credibility, a reporter must take into account the source's track record and to what extent the latter had been accurate in the past. Other considerations include whether the source can provide names of other witnesses or documents that confirm the information. Journalists must also discern if their sources were in a position to know the facts he/she is relaying.

Exercise

Can you think of other considerations a journalist must take into account when measuring a source's credibility?

Some other factors can include the following

- **Motive:** is the source's motive in supplying the material rational?
- **Contextuality:** Does the information fit the facts you have gathered?
- **Believability:** Does the source seem stable, consistent and in control?

Ground rules for attribution

Before using the information, journalists must agree on the ground rules with the sources. **On the record statements** are those directly quotable and attributable, by name and title, to the person making them. **On background** statements are also those that can be quoted but that cannot be attributed by name or specific title to the person making them for example a Foreign Ministry official, a government spokesman, a public health expert. Meanwhile, **on deep background** is anything said in the interview that is usable but not in direct quotation and not for attribution. The reporter may have to rewrite the statement in his/her own words. Finally **off the record**²⁰ is information given for the reporter's knowledge and is not to be published, broadcast or made public in any way. Off the record information is not to be taken to another source in the hope of getting official confirmation.

Verification

Even if a reporter has obtained the required information and attributed it to a source, it does not prove the material is true. Attribution just means 'It is true the source said this.'

That is why a reporter has to conduct routine verifications to ascertain that names, addresses, telephone numbers, fax numbers, email addresses, URLs, directory listings, background information taken from clips, archives, databases, and the Internet are accurate. Additionally, questionable data should be double-checked against records as well as with other sources. Nothing should be assumed or taken for granted.

²⁰ In the United States, "off the record" means you cannot use the information. It is just for your own information. In the United Kingdom, "off the record" is the equivalent of "on background" in American journalism parlance

3.3 Records available to journalists

Some of the records or documents reporters use daily are quite obvious and readily available telephone directories, professional associations directories, almanacs, assessments and tax records, licensing and permit documents, building records, car ownership and sales files, transcripts of meetings, government budgets at the city, state/province or country levels, trials and court records, wills and bankruptcies, police arrest records or annual reports and public relations materials provided by companies.

Even in countries with difficult access to information, there are bound to be public records or other sources that journalists can use. In such countries, reporters frequently rely on statistics from NGOs, international organizations, foreign diplomats and clandestine sources. It is important, however, that all such data be verified and double-checked and that reporters not rely on just one source.

Given that much of the information investigative reporters use is mathematical in nature, they must know how to calculate percentages, modes, means and medians. They should also familiarize themselves with computer programs and spreadsheets that facilitate calculations.

In the case of surveys, there are countless polling organizations with many types of polls. So reporters must first determine how a poll was conducted, what the margin of error is, who paid for it and why. Some polls have been used in stories for the sole purpose of discrediting the opposition, particularly during elections.

Digging for information


It is the responsibility of reporters to gather information that will help people understand events affecting them, particularly where public accountability is involved. To do so, reporters follow a process of gathering “surface facts” like news releases, handouts and speeches; of verifying, interviewing, investigative and covering events; and, of analyzing/interpreting the data collected.

Tools of the trade

Journalists use many tools of the trade. These include Telephones (landlines, mobiles), computers, voice recorders, memory devices, reference works, clippings, databases, census records and other statistical references, public records, laws, human sources/contacts, networks, and more.

Databases can be full texts of news stories, magazine articles and documents. Bibliographic materials could provide references to articles, government reports, scholarly works and online sources. Numeric databases could be census data, statistics and demographic material.

Census data, for example, can show trends in the aging of a population, the need for insurance, housing requirements, child labour, as well as schooling and education shortcomings in a country or city. Records on diseases and deaths can be useful for investigative stories on public health.



The illustration depicts a stylized figure of a person, possibly a journalist, surrounded by various tools and symbols of modern communication and research. These include a satellite dish, a computer monitor, a telephone, a camera, a magnifying glass, and a globe. The figure is shown in a dynamic, almost dancing pose, suggesting the active and multifaceted nature of journalism. The background is a light blue with some abstract shapes and lines.

But reporters should not be misled by pseudo-events organized by the public or private sectors with the aim of manipulating reality. Pseudo-events for public consumption are quite common in politics but are also used by companies to promote goods and services.

Government officials also manage the media through trial balloons by letting reporters think they are obtaining inside information, usually about an appointee or a new program. The material is used without attribution, the information is disseminated and the public's reaction is tested. If the public reacts negatively, the program is dropped.

In digging for information, reporters should know what to look for, how to gather data, record the findings accurately and weigh all the material very carefully before publishing, broadcasting or posting it. A report published in the Guardian in July 2005, made possible by the UK FOI act, revealed more than 200 foreign scientists have been banned from studying at British universities since 2001 amid concern they could present a terrorist threat. The Guardian revealed that academic institutions can refer applicants for security checks from 10 countries including Pakistan, Syria, India and Egypt applying to study one of 21 scientific disciplines. Yet another story published in The Sunday Times used a number of food safety reports from local authorities to reveal that Britain's largest fast-food chains including Burger King, McDonalds, KFC and Domino's were far from meeting basic food hygiene practices. One report even revealed that a beetle was baked into a Domino's restaurant pizza.

Trivia

The Watergate scandal would not have been possible if two itinerant reporters at "The Washington Post" had not doggedly pursued countless leads, conducted endless interviews and repeatedly double-checked their sources, albeit with help from an inside source who leaked the basic details that brought down the president of the United States at the time, Richard Nixon.

In countries where FOI legislation is extant, journalists should know how to make formal requests for information and take the initiative to do so.

In addition to coverage of daily events and contacts with people, reporters are advised to build up a solid supply of background information on subjects they may need in their investigations. Even seemingly unimportant bits of background information or documents not needed in the immediate future may come in handy one day when combined with other data about a particular story. Moreover, knowing how things work can turn an otherwise dull story into a major investigation.

3.4 Computer-assisted research and reporting (CAR)

No investigative journalism is complete without computer-assisted research and reporting. Pat Stith, published a guide to computer-assisted reporting for the Poynter Institute²¹ offering the following three reasons for the importance of this type of tool that has become the norm in investigative journalism.

²¹ http://www.poynter.org/content/content_print.asp?id=83

ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

1. CAR enables journalists to publish stories that readers want and can not get anywhere else.
2. There is a banquet of gripping stories reserved for reporters who can use a computer to analyze data. Those skills make it more efficient to release exclusives that separate one media outlet from another.
3. CAR also assists in creating or improving the watchdog culture. Such elements as a database or spreadsheet add depth and detail to stories that in turn fascinate readers.

With that said, reporters should follow a strategy in their Internet search. They should first define what information they are seeking, plan their search, select the appropriate tools (subject directories or search engines), be disciplined in organizing the material and be willing to scrap initial findings and use different key words and search engines or directories to reach their goals. This requires a lot of practice.

Once journalists zero in on the requisite online material, they should know how to assess it. Its reliability depends on who publishes it, how frequently the information is updated, what errors are made in the content -- mistakes in grammar, spelling, punctuation, dates, etc. Mistakes should immediately cause browsers to question the author's qualifications. Browsers should also be able to detect biases that may affect the outcome of investigative reports.

3.5 Interview

If a major part of the investigative journalism battle is locating and uncovering information, another key element is interviewing the players, and knowing how to do it well.

Bearing basic interview principles in mind, the reporter should before heading to the interview, research the interview topic and person so as to ask the right questions and understand the answers. The reporter should also map out a tentative theme for the story and prepare the list of questions in advance even though the order of the questions may be rearranged in keeping with the interview's pace and interviewee's mood. Journalists should also envisage the interviewee's reactions to certain questions particularly if the topic is on sensitive subjects.

“Judge a man by his
questions rather than
by his answers”

----Voltaire

While preparing the questions, the journalist must use different ways of asking in order to elicit useful answers for their investigative reports. **Direct questions** flow from what the reporter perceives to be the theme of the assignment. **Open-ended questions** are those that do not require a specific answer and can lead the interviewee off on a tangent rather than offer a focused reply. It is for this reason that the use of open-ended questions must be weighed carefully. **Closed-ended questions** on the other hand call for brief, pointed replies such as “Did he commit fraud?” But these questions could also backfire and upset the interviewee leading him/her to end the interview. Journalists must therefore exercise caution when using both open-ended and close-ended questions which both have merits when applied properly. But above all, they should try to avoid asking questions that will be answered with a “yes” or a “no” as that may end the interview prematurely.

Treading meticulously, however, does not rule out the posing of ‘tough’ questions that are sometimes necessary. To obtain answers, though, ‘tough’ questions must be handled carefully, be in context, and without reporters being obnoxious or offensive. To begin with, reporters should almost never start with tough questions. They should instead ‘break the ice’ with a touch of flattery. Reporters should then pose open-ended question that sets the source off on a favourite subject. But, reporters must also be wary of sources seeking to set the agenda and must ensure that they remain in control of the situation by watching and listening closely.

Ultimately, a successful interview depends on questions that put the source at ease, and elicits information that supports the theme of the story. In attempting to
The best role for the professional reporter is the impersonal, unemotional and uninvolved professional.

Interviewing Principles

1. Identify yourself ahead of time and at the beginning of the interview.
2. State the purpose of the interview.
3. Tell interviewees unaccustomed to being interviewed that the material will be used.
4. Ask the interviewee if they can take notes, record sound, shoot pictures and/or video. It is best to have proper documentation of an interview for the sake of accuracy, credibility and to avoid litigation.
5. If possible, tell the source how much time the interview will take, but don't hesitate to extend it if the interviewee seems willing to answer more questions.
6. Keep the interview short.
7. Ask short, specific questions the source is competent to answer. Don't get into hypotheticals.
8. Give the source ample time to reply, but do follow up when the need arises.
9. Ask the source to clarify complex or vague answers and ask if you may call back later for further explanation, if the need arises.
10. Read back answers if requested (but don't allow the source to censure or edit your material), or when unsure of important material.
11. Insist on answers if the public has a right to know them.
12. Avoid lecturing the source, arguing or debating issues.
13. Abide by the ground rules for attribution set up for the interview.

Discussion point

Interviewing is clearly no easy task. Can you think of traits for a professional reporter in interviews?

Does your list look like the following?

- Impersonal, unemotional and uninvolved
- Cut down on his/her ego.
- Open his/her mind to new or different ideas, even those he/she dislikes.
- Grant the interviewee time to develop his/her thoughts.
- Rarely interrupt.
- Concentrate on what's being said, not on appearances.
- Keep questions relevant.
- Not ask long questions or make statements
- Be cooperative.
- Reporters must also be prepared to hear the phrase "No Comment" and keep trying until some answer is provided.

4. MEDIA ETHICS



Trainer at the FOI and Investigative journalism training for Iraqi journalists in Amman (June '07)

Investigative journalism, as with any other media form, should adhere to media ethics. News organizations in democratic countries, and, increasingly, in emerging democracies have adopted codes of conduct or guidelines for good journalistic practices. In some countries they are called codes of ethics, but the term “code of ethics” can be misused by repressive regimes to clamp down on coverage they deem undesirable. It is for this reason that it is advised such guidelines are initiated from within news organizations and be implemented out of conviction.

Reporters should keep in mind the following key elements of media ethics in their daily practice. For starters, reporters should clearly **identify sources** and avoid plagiarism. Unidentified data should be supported by at least one or two sources. Journalists must be wary of **bribery** from politicians, countries promoting tourism or companies promoting products or services. Journalists will be undermining their own credibility if they cover events or review products favourably in return for the gifts provided. **Accuracy and fairness** is another key element in any code of ethics. Journalists should not distort content, pictures or graphics in a story. Reporters should clearly distinguish between news and views and keep each type of reporting in its proper context. It is inadvisable for journalists to obtain information under false pretexts, under cover, or by using hidden cameras and microphones unless as a last resort. Journalists must also differentiate between acting, re-enactment, dramatization, and re-filming and should not recycle

content and present it as spontaneous. This is particularly true in investigative reports.

Privacy should also be respected by journalists particularly in private property and tragedies unless it is for the public interest²². Journalists should particularly pay attention to children and abstain from interviewing or photographing them without the consent of a custodial parent or guardian, except in matters of public interest such as a case of child abuse, neglect or abandonment. Other factors journalists may wish to consider are **correction and opportunity to reply, sensationalism and use of confidential sources**.

²² Public interest includes but is not confined to

- detecting and exposing crime or serious impropriety
- Protecting public health and safety
- Preventing the public from being misled by an action or statement of an individual or organisation
- Exposing or preventing corruption or wrong-doing in public office or maladministration

5. JOURNALISTS FOR THE FREE FLOW OF INFORMATION

Given the crucial benefits of freedom of information laws to the existence of ‘good’ journalism, the media must advocate for the adoption of freedom of information laws.

The campaign must demonstrate the benefits of access to information to society as a whole and particularly government who decide whether to adopt such legislation.

To tempt governments into adopting this legislation, a campaign must highlight the benefits adopting such legislation can have. In the Arab world, such legislation can provide much-desired international recognition which in turns assists economic development in such countries as Yemen, Lebanon and Jordan. Freedom of information is after all a key component of a transparent and accountable government which undoubtedly strengthens any negotiations for loans from donors.



The media must push for legislation that clearly states that any information held by or under the control of a public body should be openly accessible to members of the public. The campaign must also demand the creation of an easily accessible mechanism through which information can be accessed, require all public bodies to organise their information in such a way that it is easily, provide a right of appeal and establish an information ‘ombudsman’ to supervise implementation of the law.²³ Also, as part of the introduction of freedom of information legislation, the government should also protect ‘whistleblowers’, a key source of information for journalists.

But, the government needs to do more than ‘just’ introduce legislation it needs to show real commitment and introduce practices that facilitate the free flow of information. For example, it should commit to providing quality and timely information to journalists; government departments should set up dedicated media offices whose aim is to provide information, and not shield it; and the government should raise awareness amongst civil servants of the importance of transparency in government. All this will not only greatly enhance the functioning of the media, it will also help fight corruption and improve the efficiency of government departments themselves.

Yet, how does one go about convincing one’s media colleagues that an open information regime and a freedom of information legislation are essential for democracy, development and for good and professional media work? How can the media organise and campaign for FoI²⁴?

²³ For an overview of these standards, see ARTICLE 19’s *the Public’s Right to Know Principles on Freedom of Information Legislation* and ARTICLE 19’s *Model Freedom of Information Law*.

²⁴ For a full campaigning manual on FOI, see ARTICLE 19’s Online Training Course on campaigning for access to information.

Some tips to help you...

Raise public awareness of the benefits of ‘open government’ through your media work: you are in the best position possible to inform your colleagues and the general public about the most relevant ways in which ATI would improve people’s lives. Report on other countries. Highlight what happens when people don’t know.

Involve other: While the power of the media is a pillar in any campaign, it remains one facet of the campaign. A coalition, bringing together other stakeholders such as NGOs, lawyers and professional unions, is essential. In setting up this alliance however, some clear ground rules must be set to avoid confrontations. A democratic decision-making process must be put in place, transparency about financial matters must be maintained and clear channels of communication must be established to allow all to know what is happening.

Bring examples from other countries, reproduce examples of FoI laws: It may be useful to describe FoI laws in other parts of the world. Maybe you and your colleagues could draft what you think will be a model FOI law. The process of drafting the model law can also serve to involve a larger group of stakeholders by convening national roundtable where the law is discussed. The draft law will also debunk arguments about the cost and bureaucracy involved in drafting a law. The model law can also serve as a benchmark against which any bills submitted to parliament are measured.

Share information from across national borders: Talk with colleagues from other countries in the Middle East and other regions. Share experiences in talking about FoI and articles and other materials.

Consider organising an FoI campaign:

Set out a number of objectives: A campaign for the adoption of Access to Information (ATI) legislation must set out a number of aims in addition to the aim of introducing such legislation, such as:

- To mobilize a broad constituency to take action on the issue of ATI.
- Put pressure on the government to recognize the importance of access to information
- Succeed in introducing an access to information law.
- Create a continuing pressure to reverse the culture of secrecy and make the new law work effectively.

Passing a law is only one part of the battle!

Identify pressure points where campaigning will be most effective. A campaign may focus on lobbying independent-minded members of parliament, trade unions, or even the opposition.

Get broad support: Ensure you get the support of the media, other journalists and editors -A Media campaign can reach a wide audience,

Plan mass action: such as demonstrations, petitions and street theatres. These tactics may help influencing the government to change its policy as well as increase public awareness of the issue.