

Media Freedom and Security Sector Governance



DCAF

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the rule of law

Tool **3**

Tool 3

Media Freedom and Security Sector Governance

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The Geneva Centre for the Democratic Control of Armed Forces (DCAF)

The Geneva Centre for the Democratic Control of Armed Forces (DCAF) promotes good governance and reform of the security sector. The Centre conducts research on good practices, encourages the development of appropriate norms at the national and international levels, makes policy recommendations and provides in-country advice and assistance programmes. DCAF's partners include governments, parliaments, civil society, international organisations and the core security and justice providers such as police, judiciary, intelligence agencies, border security services and the military.

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Introduction

The media and the security sector

In established democracies, free and independent media play a crucial role in overseeing the work of core security and justice providers. The media inform citizens about the work of law enforcement and defence institutions. They encourage people to participate in, or dispute decisions made by executive, legislative or judicial authorities on key issues related to public safety and security. The media also fulfil a watchdog function by shedding light on abuses and cases of mismanagement by formal security sector institutions. From the point of view of the authorities, engaging constructively with the media can add to their own legitimacy and that of security and justice providers. In parallel, citizens can enhance their understanding of what the security sector is and how it works thanks to well researched media reporting on related issues.

Journalists and other members of the media often acknowledge the importance of strengthening their role in security sector governance. However, many media practitioners still face various obstacles and tend to encounter special challenges when reporting on security-related topics. These challenges can include: blocked or restricted access to information that is considered sensitive; a lack of trust between security institutions and the media; and an under-developed awareness of their own role and modern definitions of security. Journalists and other members of the media may also lack a sufficient working knowledge of relevant media laws and legislation. They are often not systematically aware of the particular issues to be considered when covering a specific security-related event. In addition, they are often unaware of the impact social media can have on security sector coverage.

As a partial response to the challenges faced by journalists and other members of the media, the

Geneva Centre for the Democratic Control of Armed Forces (DCAF) has produced this toolkit for trainers. While the toolkit has been developed in the Arab region and provides practical examples from this region, it has been designed to be used by media trainers in any region of the world.

Background

The Geneva Centre for the Democratic Control of Armed Forces (DCAF) promotes democratic security sector governance and security sector reform.

As part of its long-term assistance programme to Palestinian security sector reform, DCAF has assisted civil society and media in strengthening their public oversight role in the security sector. In particular, it has fostered an on-going involvement with various Palestinian media organisations since 2008.

During the first phase of its involvement, DCAF conducted a consultative process of conferences, workshops and training needs assessments through which Palestinian media practitioners evaluated their strengths and weaknesses in assuming their oversight role in the security sector. The results of this process have shown that journalists often lack specific training on how to conduct oversight of the security sector.

In the second phase, DCAF has developed this training toolkit to present and discuss the role of journalists in overseeing the security sector and the different skills and methods journalists can use for this purpose. The toolkit aims to build on journalists' existing knowledge and includes sessions on developing an understanding of the security sector, security sector reform and governance, media laws, access to information, planning stories related to security and a session on social media and security sector governance.

In the third phase, DCAF cooperated with the Palestinian satellite TV channel 'Wattan TV' to conduct a first joint pilot training workshop using these materials, in Ramallah. The workshop focused on further enhancing the capacity of Palestinian journalists in reporting on security-related issues. As an integral part of the training workshop, the trainees were given the opportunity to cover meetings of community safety councils at governorate level and in this way apply and test their newly acquired skills.

Since this first pilot training workshop, the sessions in the toolkit have been used and tested many times, both as stand-alone sessions and as a whole course. Feedback from these training workshops and courses has been invaluable in revising and further developing the materials and activities used in this manual.

The training toolkit

The training toolkit has been designed to function as a whole training course or as stand-alone sessions on specific topics.

The training toolkit consists of the following tools:

Tool 1. Using the Toolkit and Acquiring Training Skills

Tool 2. The Media and Security Sector Governance: Concepts and Actors

Tool 3. Media Freedom and Security Sector Governance

Tool 4. Access to Information and Security Sector Governance

Tool 5. Reporting Community Safety

Tool 6. Social Media and Security Sector Governance

It is envisaged that additional sessions may also be developed and added based on further needs.

Tool 1 offers information for the trainer on training skills and also gives information on how to use the training sessions in the toolkit as a cohesive training course, if so desired. It includes introductory and conclusion sessions. Tools 2 to 6

are training sessions. These can be used as stand-alone sessions or used together to form the more comprehensive training course.

Target audience

The materials in the toolkit are intended to be read and used by media trainers with an expertise in security sector governance and reform.

The target audience for the training course itself is mainly journalists and editors/producers, but can be extended to include any member of the media.

DCAF remains available to support trainers, journalists and editors/producers interested in obtaining copies of this training toolkit or advice on how to use it.

Using the session

As specified above, this session can be used as a stand-alone training session on media freedom and security sector governance or as part of the overall course, *The Role of the Media in Security Sector Governance*.

The structure of the session

This training session consists of the following elements:

1. **The introduction** lists the learning objectives and focus questions for the session. It also lists the handouts and trainer resources which are used in the session.
2. **The session plan** gives a full overview of the session. It is a guide for the trainer to get a quick understanding of the session. It is also used as a quick reference to help the trainer to keep track of activities and of timing during the training.
3. **The description of activities** explains in more detail how to carry out the activities listed in the session plan individually.
4. **The handouts** are given to the participants during the activities in the sessions. They are easily photocopied and can include:
 - Worksheets with tasks for the participants to complete
 - Hard copies of PowerPoint presentations
 - Summaries of key information
 - Publications
5. **The trainer resources** provide supporting information for the trainer. They also provide sets of questions to allow the trainer to prepare country-specific activities. They can include:
 - Summaries of international best practices

- Sets of questions from which to construct a country-specific handout
- Examples of the completed activities

The activities in the session are designed to be used in the order suggested in the session plan and one exercise often builds on an exercise before. However, the sessions are a resource from which the trainer can make adaptations and changes as deemed fit. The trainer is expected to adapt the sessions in the light of the objectives that need to be achieved, the country/cultural environment in which the training takes place, and the specific needs and capacities of the participants.

Why is media freedom important for journalists?

Media freedom is protected by major international human rights treaties and covenants. Under international law, journalists should not be subjected to restrictions against their right to seek, receive and impart information through any media. All forms of pressure, including intimidation, censorship and political interference in the work of the media are prohibited as a matter of principle.

A sound domestic legal and institutional framework for media freedom is conducive to an informed and participative public debate on key issues such as security. In addition, media organisations that enjoy freedom and independence are able to oversee the work of public bodies, including security sector institutions.

In many contexts, however, national security is often invoked to justify curtailing media freedom. In such contexts, the legal and institutional mechanisms for enforcing media freedom remain weak, and journalists often lack the necessary knowledge and capacity to protect their rights.

Media Freedom and Security Sector Governance: The Training Session

Learning objectives

The objective of this session is to give participants a clear understanding about media freedom in connection to security sector governance. This includes the following learning objectives:

- Understanding the standards and principles of media freedom
- Becoming aware of the components of the legal framework protecting media freedom
- Becoming aware of the components of the institutional framework protecting media freedom
- Learning how to challenge restrictions against media freedom imposed by security and justice providers
- Becoming aware of the principles and indicators used to assess the framework for media freedom

- Sharing experiences of field practices and developing solutions to apply in the participants' work practices

Focus questions

The following questions are addressed through the activities in this session:

- What are the international principles and standards underpinning media freedom?
- What is the legal framework protecting media freedom?
- What is the institutional framework protecting media freedom?
- What are the common restrictions of media freedom made by security and justice providers?
- What are the tools and mechanisms for challenging restrictions against media freedom?

Overview

Session Plan 3. Media Freedom and Security Sector Governance

Description of Activities

Handout 3.1 Test: Media freedom and security sector governance

Handout 3.2 Worksheet: Mapping the national legal and institutional framework for media freedom

Handout 3.3 PowerPoint presentation hardcopy: Media freedom and security sector governance

Handout 3.4 Scenarios and discussion: Restrictions to media freedom by security or justice providers

Handout 3.5 Worksheet: Restrictions to media freedom. Applying the 'three-part test'

Handout 3.6 Worksheet: Media freedom checklist

Handout 3.7 Information sheet: Principles and indicators of media freedom

Trainer Resource 3.1 Alternative scenarios of restrictions to media freedom

Trainer Resource 3.2 Information sheet: The three-part test (Extracts from Article 19's background)

Trainer Resource 3.3 Answer sheet: Answers to the media freedom and security sector governance test

Session Plan

Media freedom and security sector governance					
Learning objectives	<p>Participants will be able to:</p> <ol style="list-style-type: none"> 1. Understand the standards and principles of media freedom 2. Become aware of the components of the legal framework protecting media freedom 3. Become aware of the components of the institutional framework protecting media freedom 4. Learn how to challenge restrictions against media freedom imposed by security and justice providers 5. Become aware of the principles and indicators used to assess the framework for media freedom 6. Share experiences of field practices and develop solutions to apply in the participants' work practices 				
Content to be covered	<ul style="list-style-type: none"> • International principles and standards underpinning media freedom • Structure of the legal framework for the media • Structure of the institutional framework safeguarding media freedom • Common restrictions against media freedom by security and justice providers • Mechanisms and tools for challenging restrictions against media freedom • Practical application of information learnt in the session 				
Time	240 minutes				
Activity	Time	Description of activity	Grouping and Materials	Session objectives	Comments
1	10 min	Introduction and pre-test	Trainer to whole group Handout 3.1 Test: Media freedom and security sector governance	-	<p>The trainer overviews the session (relevance, focus questions addressed, activities and timing). The trainer then gives each participant Handout 3.1, which is used as a short baseline test. This test assesses the participants pre-existing awareness of media freedom and security sector governance issues and focuses them on the contents of the session. (This same test will be used again, but as a post-learning assessment tool, at the end of the session, in Activity 8.)</p> <p>The trainer collects the tests from each participant. The trainer does not discuss the answers to the test now but instead explains to the participants that they will receive the same test at the end of the training session and that these questions will be answered through the content of the session.</p>

Media freedom and security sector governance					
Activity	Time	Description of activity	Grouping and Materials	Session objectives	Comments
2	30 min	Discussion and mapping: The national framework for media freedom: principles, restrictions, laws and regulatory bodies	Pairs Handout 3.2 Worksheet: Mapping the national legal and institutional framework for media freedom	Obj. 1-6	The trainer asks the participants to work in pairs. Each pair receives a copy of Handout 3.2 , which presents a table for mapping the national framework for media freedom. The table has the following headings: <ul style="list-style-type: none"> • Laws protecting media freedom • Laws restricting media freedom • Institutions protecting media freedom • Institutions which can restrict media freedom Under each header, participants discuss and map the key elements available in their country, according to their knowledge. The trainer can encourage a brief discussion on the outcomes of this preliminary mapping. However, the trainer should explain that the results of this exercise will be completed at a later stage in the session, during Activity 7.
3	30 min	PowerPoint presentation: Media freedom and security sector governance	Trainer to whole group Handout 3.3 PowerPoint presentation hardcopy: Media freedom and security sector governance Computer, projector	Obj. 1-6	The trainer gives a PowerPoint presentation covering the topic of media freedom and security sector governance (Handout 3.3). The trainer makes clear that this presentation will clarify the main points discussed in Activity 2. During the presentation, the trainer may encourage questions and remarks from the whole group.
Break					
4	50 min	Scenarios and discussion: Restrictions to media freedom by security or justice personnel	Small groups Feedback from selected groups to whole group Handout 3.4 Scenarios and discussion: Restrictions to media freedom by security or justice providers Trainer Resource 3.1 Alternative scenarios of restrictions to media freedom	Obj. 4	Participants work in small groups. The trainer asks the participants to think of a situation they have experienced, during which their rights and freedoms as journalists were curtailed by security or justice providers. Each group chooses one situation they want to discuss. Together as a group, they write a very brief description of this situation using Handout 3.4 . (Alternatively, if the participants have no previous experience, the trainer can give each group a prepared scenario from Trainer Resource 3.1 .) In groups, the participants discuss and answer the three questions on the handout. The trainer selects individuals for feedback to the whole group. The trainer may decide to show again slides 12 and 13 of the PowerPoint used in Activity 3, which provides examples of national or international bodies that journalists can approach if their freedoms are curtailed.

Media freedom and security sector governance					
Activity	Time	Description of activity	Grouping and Materials	Session objectives	Comments
5	30 min	Applying the three-part test to restrictions against media freedom	Small groups Handout 3.5 Worksheet: Restrictions to media freedom. Applying the 'three-part test' Trainer Resource 3.2 Information sheet: The three-part test (Extracts from Article 19's background)	Obj. 4	Participants work in the same small groups as above. The trainer gives them Handout 3.5 , which includes the three questions of a three-part test. The participants are invited to discuss applying the three-part test to one or several of the situations that were discussed during Activity 4. As background information, the trainer can show the 'three-part test' slide again from Handout 3.3 (slide 5) to the whole group and discuss it briefly. The trainer can use Trainer Resource 3.2 to fully explain the three-part test. The Trainer Resource may be distributed to the participants upon request for their further reading.
Break					
6	60 min	Reading and discussion: Assessing the national framework for media freedom	Small groups Handout 3.6 Worksheet: Media freedom checklist Handout 3.7 Information sheet: Principles and indicators of media freedom	Obj. 5	Participants work in small groups. The trainer gives out Handout 3.6 , which is a checklist for assessing media freedom in the country. First, the trainer explains how to use the checklist and models how to answer the first few questions. Then the trainer gives out Handout 3.7 , which presents a detailed list of the main principles of media freedom and related assessment indicators. The trainer explains that Handout 3.7 is to be used by the participants to help them answer the questions in the checklist (Handout 3.6). The groups then carry out their assessment of media freedom in their country by answering the questions in the checklist (Handout 3.6). At the end of the discussion, the trainer asks for feedback from the groups and checks their answers.
7	20 min	Discussion: Completing the mapping: The national framework for media freedom: principles, restrictions, laws and regulatory bodies	Pairs Flipchart	Obj. 1-5	The participants work in pairs. The trainer asks the participants to reconsider the answers they provided during Activity 2 in Handout 3.2 . The participants discuss what they have learnt in this training session so far and make any changes or additions to the answers they had put in Activity 2. The trainer puts the four headings from the handout on to a flipchart: laws protecting media freedom; laws restricting media freedom; institutions protecting media freedom; and institutions which can restrict media freedom. The trainer asks each pair to complete the answers provided during Activity 2, based on the information learned during the session. The trainer writes these points under each of the headers and completes the map. Alternatively, the trainer can ask group participants to do so. The trainer can also encourage participants to comment on each other's answers.

Media freedom and security sector governance					
Activity	Time	Description of activity	Grouping and Materials	Session objectives	Comments
8	10 min	Conclusion, re-cap and post-test	Trainer to whole group Handout 3.1 Test: Media freedom and security sector governance Trainer Resource 3.3 Answer sheet: Answers to the media freedom and security sector governance test	Obj. 1-6	The trainer distributes the same tests that the participants took in Activity 1, Handout 3.1 . This time the test functions as a short post-learning assessment test. After the participants have completed the test the trainer can check if the participants have changed their answers from the pre-test ones and also give the correct answers to the participants. (The correct answers to the test are available for the trainer in Trainer Resource 3.3) The trainer then re-caps the activities covered and what key points have been learnt. The trainer may choose to elicit this information from the participants.



Description of Activities

This section describes in more detail the activities listed above in the session plan.

Activity 1. Introduction and pre-test

The trainer explains to the whole group why an awareness of principles and standards of media freedom is relevant to them, i.e. as media practitioners who contribute to overseeing the security sector. Next, the trainer can use the focus questions (on page 11) to frame up the content of the session. Finally, the trainer gives an overview of the kind of activities the participants will be doing and the timing for the day.

The trainer then gives each participant **Handout 3.1**, which is a short baseline test to assess the participants' pre-existing awareness of principles and standards of media freedom and to introduce them to the contents of the session. Once completed, the trainer collects the tests from each participant. The trainer does not discuss the answers to the test now. Instead, the trainer explains to the participants that they will receive the same test at the end of the training session, which will allow for assessing their acquired knowledge.

Materials:

- **Handout 3.1** Test: Media freedom and security sector governance

♣ *Alternative:* The trainer can prepare an agenda of the day based on the session plan, give this as a handout and talk it through with the participants.

Activity 2. Discussion and mapping: The national legal and institutional framework for media freedom

Activity 2 is a pair-work discussion. This activity allows the participants to direct their attention to the session's topic, and to begin to discuss their own experiences and understanding.

Participants discuss what they think is the national legal and institutional framework for media freedom in their country.

The trainer gives **Handout 3.2** to the participants. Ideally, prior to the training session, the trainer would have completed a copy of the handout in order to use it as a reference in the activity.

The handout has the following headings:

- The laws protecting media freedom
- The laws restricting media freedom
- The institutions protecting media freedom
- The institutions which can restrict media freedom

The trainer then asks the participants to work in pairs. Under each header, participants discuss and map the key elements available in their country, according to their knowledge. Once the mapping is completed, the trainer can allow a brief group discussion on the elements raised. However, the trainer explains that the results of this preliminary mapping exercise will be completed at a later stage, during Activity 7.

Materials:

- **Handout 3.2** Worksheet: Mapping the national legal and institutional framework for media freedom

Activity 3. PowerPoint presentation: Media freedom and security sector governance

This activity consists of a PowerPoint presentation that introduces the key standards and principles related to media freedom and security sector governance. It addresses the following questions:

- What is the role of the media in security sector governance?

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- What are the key standards and principles of media freedom?
- How does the legal framework for media look like in a democratic country?
- What are the most common restrictions against media freedom?
- What is the status and role of media regulatory bodies?
- What are the national and international mechanisms protecting media freedom?

The trainer can choose to distribute **Handout 3.3** to the participants at the beginning or at the end of the presentation.

During the presentation the trainer may want to encourage questions from the participants.

Materials:

- **Handout 3.3** PowerPoint presentation *hardcopy: Media freedom and security sector governance*
- Computer, projector

Activity 4. Scenarios and discussion: Restrictions against media freedom by security or justice personnel

This activity allows participants to acquire a better understanding of the restrictions which security and/or justice providers can sometimes impose on media freedom. The activity also allows them to discuss ways to challenge such restrictions.

Participants are divided into small groups. Each group receives **Handout 3.4**. The handout allows them to identify and discuss one real-life situation which they have been confronted with as journalists. Alternatively, the trainer may choose to give the groups any of the prepared scenarios listed in **Trainer Resource 3.2**. For example, if the participants have very limited experience or if the examples provided by the participants are not clear or realistic, then the trainer may choose to use one of these scenarios

instead.

After reading the scenario, the participants answer the three questions asked after each scenario. The questions aim at:

- Assessing whether the restriction against media freedom suggested in the scenario is legitimate
- Bringing forward arguments for claiming the journalists' rights
- Acquiring knowledge of those national and international bodies which journalists can approach to claim their rights.

The trainer asks the participants to give feedback from the different topics to the whole group.

The trainer may decide to show again slides 12 and 13 of **Handout 3.3**, which provides examples of national or international bodies that journalists can approach if their freedoms are unjustifiably curtailed.

Materials:

- **Handout 3.4** Scenarios and discussion: *Restrictions against media freedom by security or justice providers*

Activity 5. Applying the three-part test to restrictions against media freedom

This activity allows the participants to apply the three-part test to restrictions against media freedom. The three-part test assesses the legitimacy of any restriction against media freedom and other human rights, based on Art. 19 of the International Covenant on Civil and Political Rights (ICCPR).

Participants work in small groups. They receive **Handout 3.5** and apply the three-part test to the scenario they have discussed during Activity 4. The questions of the three-part test are:

1. Is the restriction provided by law?
2. Does the restriction serve a legitimate aim?

3. Is the restriction necessary to protect this aim?

The trainer can select individuals to provide feedback to the whole group. The trainer can use **Trainer Resource 3.2** to fully explain the three-part test. Copies of the trainer resource may be distributed to the participants upon request for their further reading.

Materials:

- **Handout 3.5** Worksheet: Restrictions to media freedom. Applying the 'three-part test'
- **Trainer Resource 3.2** Information sheet: The three-part test (Extracts from Article 19's backgrounder)

Activity 6. Reading and discussion: Assessing the national framework for media freedom

This activity asks the participants to self-assess the framework for media freedom in their country.

To do so, participants work in small groups. The trainer gives out **Handout 3.6**, which is a media freedom checklist.

First, the trainer explains the media freedom checklist, answers any questions from the participants and models how to answer the first few questions. Then the trainer gives out **Handout 3.7**, which presents a detailed list of the main principles of media freedom and related assessment indicators. The trainer explains that **Handout 3.7** is to be used by the participants to help them answer the questions in the checklist (**Handout 3.6**).

The groups then carry out their assessment of media freedom in their country by answering the questions in the checklist (**Handout 3.6**).

At the end of the discussion, the trainer asks for feedback from the groups and checks their answers.

Materials:

- **Handout 3.6** Worksheet: Media freedom checklist
- **Handout 3.7** Information sheet: Principles and indicators of media freedom (Article 19 and UNESCO)

Activity 7. Discussion: Completing the mapping: The national legal and institutional framework for media freedom

The aim of this activity is to offer participants the opportunity to complete the mapping exercise initiated in Activity 2.

Based on the knowledge acquired during the session, the participants work in pairs to complete the information they started compiling in **Handout 3.2** concerning:

- The laws protecting media freedom
- The laws restricting media freedom
- The institutions protecting media freedom
- The institutions which can restrict media freedom

Once the pairs have completed the work, the trainer asks for feedback from selected groups.

Activity 8. Conclusion, re-cap and post-learning test

The trainer distributes the same tests that the participants took in Activity 1 (**Handout 3.1**). This time the test functions as a short post-learning assessment test. After the participants have completed the test the trainer can check if the participants have changed their answers from the pre-test ones and also give the correct answers to the participants. (The correct answers to the test are available for the trainer in **Trainer Resource 3.3**).

The trainer then outlines what the session has covered. The outline would include:

- Recapitulating the activities covered

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- Discussing key points of what has been learnt
- Giving an overview of the resources the journalists now have (e.g. PowerPoint presentation hardcopy, three-part test explanations, main principles and indicators for assessing media freedom).

Alternatively, the trainer can elicit this information from the participants.

Assessment of participant learning

Assessment of participant learning in this session is accomplished through the comparison between the pre-learning baseline test and the post-learning test. Assessment is also accomplished through the trainer assessing the participants' level of achievement in Activities 2 to 7. The trainer may choose to do this by assessing to what extent the participants' performance in the tasks has been satisfactory.



Handout 3.1

Test: Media freedom and security sector governance

In Activity 1, the participants answer a pre-test on media freedom and security sector governance. The test will be given again at the end of the session, during Activity 8.

Name:

1. Is media freedom enshrined in international law?

- a) No, only in national laws
- b) Yes, in Article 19 of the Geneva Conventions (1949)
- c) Yes, in Article 19 of the International Covenant on Civil and Political Rights (1966)
- d) Yes, in both Articles 19 of the United Nations Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966)

Pre-session answer

Post-session answer

2. Is media freedom enshrined in the Constitution of your country?

- a) Yes
- b) Yes, in the first article of the Constitution
- c) Yes, in Article 19 of the Constitution
- d) No

Pre-session answer

Post-session answer

3. According to international law, restrictions against media freedom are necessary:

- a) Only in times of armed conflicts
- b) When the reputation and privacy of government and security sector officials is at risk
- b) For the protection of the rights and reputation of others, national security, public order, and/or public health and morals
- d) According to international law, there should never be any restrictions against media freedom

Pre-session answer

Post-session answer

Handout 3.1 (Cont.)

4. The national legal framework for media's work:

- a) Includes the press law and the broadcasting law, but not the constitution
- b) Includes the constitution and all laws which regulate the written and broadcasting media
- c) Includes only the press law, as it is the most important piece of legislation regulating the media
- d) Includes only the access to information law, as it prevails over all other laws once enacted

Pre-session answer	Post-session answer

5. High media councils are:

- a) Government bodies in charge of controlling the private media
- b) Civil society organisations in charge of monitoring abuses against media freedom
- c) Fully independent bodies in charge of regulating the broadcasting media sector
- d) Supreme institutions federating the journalists' unions and syndicates

Pre-session answer	Post-session answer

6. The directing board of high media councils:

- a) Should ideally be appointed by the government, upon approval by the parliament
- b) Should ideally be appointed by the government, upon approval by the journalists' union
- c) Should ideally be appointed by parliament without the government's interference
- d) Should ideally be appointed by the members of the journalists' union

Pre-session answer	Post-session answer

7. The following institutions are in charge of enforcing media freedom in cases of gross abuses:

- a) The parliament and the Supreme Court
- b) The Ministry of Information
- c) The journalists' union and civil society organisations
- d) Normal administrative courts, information commissioners, ombuds institutions or high media councils

Pre-session answer	Post-session answer

Handout 3.1 (Cont.)

8. Journalists' sources of information should:

- a) Be disclosed only when the police or the courts want to access them
- b) Be disclosed only when a special committee of the parliament wants to access them
- c) Never be disclosed
- d) Be disclosed under very specific situations, when there is an overriding reason for it

Pre-session answer	Post-session answer

9. Censorship prior to publication should be:

- a) Forbidden at all times
- b) Allowed only if the information to be published contravenes the Constitution
- c) Allowed at all times, provided the Ministry of the Interior has the means to control every publication
- d) Allowed only if the information to be published poses a threat against national security

Pre-session answer	Post-session answer

10. A journalist is:

- a) Free to refuse to cover a topic suggested by his editor-in-chief
- b) Obligated to cover a topic suggested by his editor-in-chief
- c) Free to refuse to cover a topic suggested by his editor-in-chief, unless the topic is of urgent public interest
- d) Obligated to cover a topic suggested by his editor-in-chief, provided it does not pose a risk to national security

Pre-session answer	Post-session answer



Handout 3.2

Worksheet: Mapping the national legal and institutional framework for media freedom

In Activity 2, the participants use the following table to map the legal and institutional framework for media freedom in their countries. This handout, and the mapping exercise, will be revisited and completed later on in the session, during Activity 7.

The legal framework	The institutional framework
Laws protecting media freedom:	Institutions protecting media freedom:
Laws restricting media freedom:	Institutions which can restrict media freedom:



Handout 3.3

PowerPoint presentation hardcopy: Media freedom and security sector governance

The following slides provide an example of a PowerPoint presentation for this session. A copy of this presentation is given to the participants during Activity 3.

Media Freedom and Security Sector Governance

What is the role of free media in
security sector governance?

- **Informing** citizens on issues related to national security, public safety, justice and law-enforcement operations
- Ensuring public **participation** in decision-making processes related to security
- Ensuring informal **oversight** of the security sector
- Promoting **accountability** of public and security officials for their acts and their use of funds
- **Denouncing** human rights abuses and cases of corruption
- And... what else in your view?

Handout 3.3 (Cont.)

Freedom of expression and the media: The United Nations Universal Declaration of Human Rights (1948), Art. 19

“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.”

Freedom vs. “duties and responsibilities” of the media: The International Covenant on Civil and Political Rights (1966), Art. 19:

“The exercise of the rights to freedom of expression and opinion carries **duties** and **responsibilities**.

The right to freedom of expression and opinion may therefore be subject to certain **restrictions**. These restrictions must be **prescribed by law** and **necessary**:

- For the respect of the rights or reputation of others
- For the protection of national security or of public order, or of public health or morals.”

Handout 3.3 (Cont.)

Restrictions against media freedoms: The three-part test

Based on Art. 19 of ICCPR, a three-part test can be applied to ensure that restrictions against media freedoms:

- Are **provided by law**;
- Help reach a **legitimate aim** under international law;
- Are **necessary** for the protection or promotion of the legitimate aim.

See Article 19, *Limitations*, available:

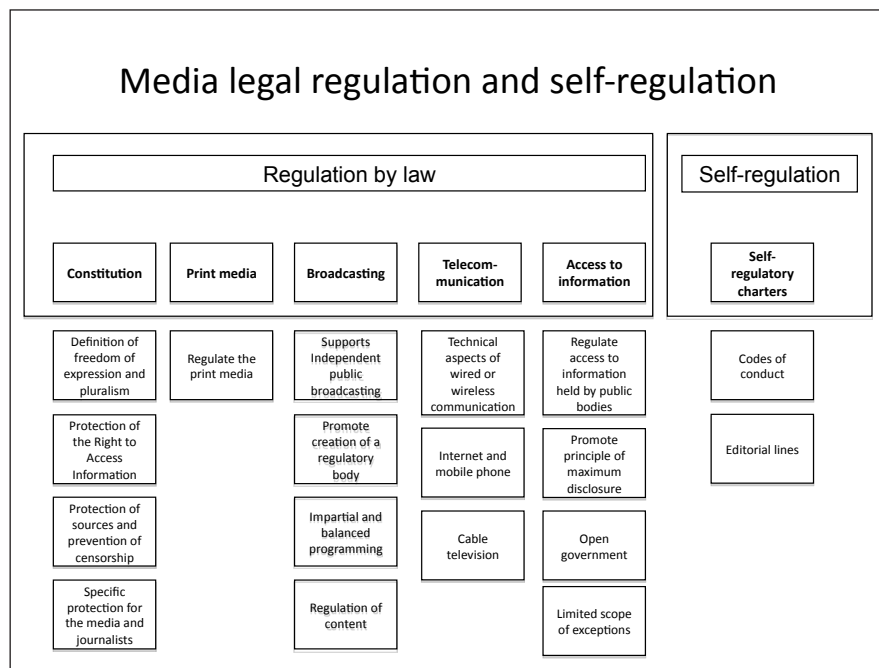
<http://www.article19.org/pages/en/limitations.html>

Key components of media freedom

- Freedom of opinion and expression
- Diversity
- No censorship prior to publication
- Individual freedom of journalists from their editors
- No licensing or registration system for the print media
- Fair licensing and frequency regulation for broadcast media
- Independence of all regulatory bodies, including high media councils
- No concentration of media outlets (anti-trust)
- Right of journalists to protect their confidential sources of information
- Right of journalists to associate in the professional bodies of their choice

Source: Article 19, *Freedom of Expression and the New Iraqi Constitution*, London, 2005, available: http://webworld.unesco.org/download/fed/iraq/english/iraq_constitution_en.pdf

Handout 3.3 (Cont.)



Laws which can limit media freedom

Security-related laws:

- Laws regulating the work of the police, security and armed forces
- Laws of emergency or state of emergency laws
- State secrecy laws
- Anti Terrorism laws

Privacy, defamation and intellectual property:

- Privacy laws
- Data protection laws
- Criminal defamation laws
- Copyright laws

Criminal justice laws:

- Laws regulating the justice sector and the courts
- Civil or criminal codes

Handout 3.3 (Cont.)

High media councils and regulatory bodies: Goals

- To safeguard pluralism, impartiality, diversity and accuracy of opinions
- To ensure a diversity of broadcasting organisations
- To avoid government control over frequencies and content
- To promote independent broadcasting
- To allocate broadcast frequencies and licenses fairly and transparently
- To develop and apply codes of broadcasting conduct

High media councils and regulatory bodies: Principles

- Full independence guaranteed by law and constitution
- Independent governing board appointed by parliament
- Accountable to the public through parliament
- Fully autonomous financially

Handout 3.3 (Cont.)

Self-regulation of broadcast content through codes of conduct: Principles

- To set standards for:
 - accuracy
 - privacy
 - sound treatment of sensitive issues such as violence, conflict, sex, etc.
 - balanced coverage of elections (for example)
- To define rules of professional ethics

Enforcing media freedom: Appeal bodies at national level

- Domestic courts
- Information commissioners
- Broadcasting regulators
- Ombuds institutions

Handout 3.3 (Cont.)

Enforcing media freedoms: Bodies and mechanisms at international level

- UN Human Rights Council
- UN Special Rapporteur on Freedom of Expression
- UN Human Rights Committee
- OSCE Representative on Freedom of the Media
- European Court of Human Rights



Handout 3.4

Scenarios and discussion: Restrictions to media freedom by security or justice providers

In Activity 4, participants in small groups provide an example experience where restrictions were imposed upon their work by security or justice providers. They then answer three questions related to their example. (Pre-written scenarios to give to the participants, if required, are available in **Trainer Resource 3.1.**)

Real-life scenario

Please write down a situation you have experienced as a journalist in which restrictions were imposed upon your work by security or justice providers.

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Questions:

1. Was the restriction by the security or justice provider legitimate or illegitimate?
2. What arguments would you use if this situation occurs again, in order to claim your rights as a journalist?
3. What national or international bodies do you think you can approach to claim your rights?



Handout 3.5

Worksheet: Restrictions to media freedom. Applying the 'three-part test'

In Activity 5, participants in small groups use the scenario discussed during Activity 4 and answer the questions of the three-part test below.

Scenario chosen from Handout 3.4: _____

Please apply the following three-part test to the situation chosen:

1. Is the restriction provided by law? (If yes, please mention this law.)
2. Does the restriction serve a legitimate aim? (Please argue why you think the restriction is or isn't legitimate.)
3. Is the restriction necessary to protect this aim? (Please argue why you think OR do not think that the restriction is necessary or cannot be replaced by another measure.)

Note: The three-part test has been elaborated by the organisation Article 19 on the basis of Art. 19 of the *International Covenant on Civil and Political Rights* (ICCPR, 1966). For more details, please refer to the Additional Resources section (page 47).



Handout 3.6

Worksheet: Media freedom checklist

During Activity 6, the participants apply the media freedom checklist to the situation of the media in their country. (**Handout 3.7**, which is also given to the participants, assists the participants in formulating and checking their answers.)

Media freedom checklist	Yes	No	Comment
1. The legal framework for freedom of expression			
Right of freedom of opinion, expression and access to information:			
1.1. Does the constitution and/or any other law enshrine the right of opinion and expression?	<input type="checkbox"/>	<input type="checkbox"/>	
1.2. Does the constitution and/or any other law enshrine the right to access official information?	<input type="checkbox"/>	<input type="checkbox"/>	
1.3. Has the country signed and ratified international treaties, with no specific exemptions, concerning freedom of expression and access to information?	<input type="checkbox"/>	<input type="checkbox"/>	
Protection of sources:			
1.4. Does the law enshrine the right to protect confidential sources of information?	<input type="checkbox"/>	<input type="checkbox"/>	
1.5. Have you heard of any cases of journalists being forced to disclose sources of information?	<input type="checkbox"/>	<input type="checkbox"/>	
Judicial proceedings:			
1.6. Is the right to freedom of expression and to access to information enforced by independent civil courts? Does the law foresee clear rights of appeal?	<input type="checkbox"/>	<input type="checkbox"/>	
1.7. Do you know of any court cases pronounced in favour of or against journalists relating to freedom of expression or access to information?	<input type="checkbox"/>	<input type="checkbox"/>	
1.8. Have you heard of any successful interventions by courts in favour of journalists?	<input type="checkbox"/>	<input type="checkbox"/>	

Handout 3.6 (Cont.)

Media freedom checklist	Yes	No	Comment
Civil society participation:			
1.9. Are there any civil society organisations, professional associations or international organisations actively involved in defending the rights of the media in your country?	<input type="checkbox"/>	<input type="checkbox"/>	
2. Independence of the regulatory and complaint bodies			
Independent complaint bodies:			
2.1. Are there independent mechanisms, such as an information commissioner or an ombuds institution, to which journalists can submit complaints or appeals?	<input type="checkbox"/>	<input type="checkbox"/>	
Independent regulatory bodies:			
2.2. Does the constitution/law foresee the establishment of a politically independent regulator for the broadcasting media?	<input type="checkbox"/>	<input type="checkbox"/>	
2.3. Does the law allow for the transparent selection of the members of the regulatory body?	<input type="checkbox"/>	<input type="checkbox"/>	
2.4. Does the law allow for the financial independence of the regulatory body?	<input type="checkbox"/>	<input type="checkbox"/>	
2.5. Are you aware of any recent attempts to establish a media regulatory body?	<input type="checkbox"/>	<input type="checkbox"/>	
2.6. Are you aware of any civil society initiative or professional association involved in lobbying for the establishment of a regulatory body?	<input type="checkbox"/>	<input type="checkbox"/>	
3. Government influence and control			
External influence on the media:			
3.1. Does government, the private sector or any other body seek to influence editorial content of broadcasters or press?	<input type="checkbox"/>	<input type="checkbox"/>	

Handout 3.6 (Cont.)

Media freedom checklist	Yes	No	Comment
3.2. Are broadcasters required to allocate broadcasting time, or carry specific broadcasts on behalf of government or any other entity?	<input type="checkbox"/>	<input type="checkbox"/>	
Ownership and licensing:			
3.3. Does the law allow for the government to control ownership and printing of media content?	<input type="checkbox"/>	<input type="checkbox"/>	
3.4. Does the law require that licenses should be obtained before publishing?	<input type="checkbox"/>	<input type="checkbox"/>	
3.5. Does the licensing process include:			
a) restrictions on who may apply for a license?	<input type="checkbox"/>	<input type="checkbox"/>	
b) financial requirements?	<input type="checkbox"/>	<input type="checkbox"/>	
c) specific timeframes prior to publication of materials?	<input type="checkbox"/>	<input type="checkbox"/>	
4. Specific restrictions on media freedom			
Restrictions on contents and censorship:			
4.1. Does the law allow for prior censorship by government bodies on material to be printed or published by the press, the broadcast media or the internet?	<input type="checkbox"/>	<input type="checkbox"/>	
4.2. Does the law prohibit the publication of certain content? If yes, what content?	<input type="checkbox"/>	<input type="checkbox"/>	
Restrictions on personnel:			
4.3. Does the law set restrictions on who may be an editor-in-chief, direct media institutions, own newspapers or exert the profession of journalist?	<input type="checkbox"/>	<input type="checkbox"/>	
4.4. Have you heard of any cases of censorship, closures, intimidations, imprisonments, etc., recently conducted against media representatives?	<input type="checkbox"/>	<input type="checkbox"/>	

Handout 3.6 (Cont.)

Media freedom checklist	Yes	No	Comment
Defamation:			
4.5. Is there any law that could be described as a defamation law in your country?	<input type="checkbox"/>	<input type="checkbox"/>	
4.6. Is defamation defined as a criminal or a civil offense?	<input type="checkbox"/>	<input type="checkbox"/>	
Other restrictive legislation:			
4.7. Are there any other types of legislation which impose restrictions on media freedom, in particular based on:			
- safety and national security?	<input type="checkbox"/>	<input type="checkbox"/>	
- privacy?	<input type="checkbox"/>	<input type="checkbox"/>	
- health?	<input type="checkbox"/>	<input type="checkbox"/>	
- any other aspect?	<input type="checkbox"/>	<input type="checkbox"/>	
4.8. Are there any restrictions/exceptions to the right of access to information? If yes, what types of exceptions?	<input type="checkbox"/>	<input type="checkbox"/>	
Sanctions:			
4.9. Does the law provide sanctions of imprisonment against media representatives?	<input type="checkbox"/>	<input type="checkbox"/>	
4.10. Does the law provide a system of fines for media representatives breaching the law?	<input type="checkbox"/>	<input type="checkbox"/>	



Handout 3.7

Information sheet: Principles and indicators of media freedom

This handout contains information that helps the participants assess the framework for media freedom in their country during Activity 6. It provides an overview of the main principles and standards of media freedom. It also provides a list of indicators against which these principles and standards can be assessed country by country. This information sheet is given to the participants to help them complete the media freedom checklist (*Handout 3.6*).

Note: The principles and key indicators of media freedom in this handout are adapted from tools and publications by 'Article 19' and UNESCO. References to the tools are mentioned in this handout. For details of the references, please refer to the Additional Resources (on page 47).

1. Legal framework for freedom of expression

Right of freedom of opinion, expression and access to information

Principle:	Key indicators:
<p>"Everyone has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, orally, in print, in the form of art, through the broadcast media or through any other media of his or her choice."</p> <p>Article 19, <i>Access to the Airwaves</i>, p. 2.</p>	<ul style="list-style-type: none"> • National law or constitutional guarantee on freedom of (access to) information • Country has signed and ratified relevant treaty obligations, with no significant exemptions (reservations) • Public bodies release information both proactively and on demand <p>UNESCO, <i>Media Development</i>, Indicators 1.1. and 1.2.</p>

Protection of sources

Principles:	Key indicators:
<p>"The law should enshrine the right to protect confidential sources of information."</p> <p>Article 19, <i>Memorandum</i>, p. 2.</p> <p>"Courts should never order disclosure where the information sought could be obtained by other means and even where it cannot, disclosure should not be ordered unless it is necessary to protect a significant interest."</p> <p>Article 19, <i>Memorandum</i>, p. 9.</p>	<ul style="list-style-type: none"> • Journalists can protect confidentiality of their sources without fear of prosecution or harassment <p>UNESCO, <i>Media Development</i>, Indicator 1.4.</p>

Handout 3.7 (Cont.)

Judicial proceedings

Principle:	Key indicators:
<p>Every state must have “some sort of mechanism in place through which [an individual] can enforce his or her human rights, including the right to freedom of expression.”</p> <p>Article 19, <i>Enforcement</i>, paragraph 1.</p>	<ul style="list-style-type: none"> Country has an independent and functioning judicial system with clear rights of appeal Public is aware of and exercises its right to free expression, and there are tools and bodies which guarantee the concrete application of this right <p>UNESCO, <i>Media Development</i>, Indicator 1.1.</p>

2. Independence of the complaints and regulatory bodies

Principle:	Key indicators:
<p>“The law will (...) set up an overall public authority – an Information Commissioner or something similar – with overall responsibility for freedom of information issues. This will be the authority to deal with any complaints about the way in which the information system is working – including, very importantly, initial appeals against decisions to refuse information.”</p> <p>Article 19, <i>Freedom of Information Training Manual</i>, p. 37.</p>	<ul style="list-style-type: none"> Effective and efficient appeals mechanism via an independent administrative body, e.g. an information commissioner or ombuds institution <p>UNESCO, <i>Media Development</i>, Indicator 1.2.</p>

Independent broadcasting regulatory bodies

Principle:	Key indicators:
<p>“The legal status of these bodies should be clearly defined in law. Their institutional autonomy and independence should be guaranteed and protected by law (...).”</p> <p>Article 19, <i>Access to the Airwaves</i>, p. 5.</p>	<ul style="list-style-type: none"> Legal guarantees of the independence of the regulatory body Powers and responsibilities of the regulator clearly set out in law Members of the regulatory body chosen through a transparent and democratic process designed to minimize the risk of partisan or commercial interference (for instance, setting up rules on incompatibility and eligibility) Adequate and consistent funding for the regulator is guaranteed by law to safeguard its independence and/or protect it from coercive budgetary pressures <p>UNESCO, <i>Media Development</i>, Indicator 1.6.</p>

Handout 3.7 (Cont.)

3. Government influence and control

Principle:	Key indicators:
<p>"It is inherent to the very concept of freedom of the press that the government should not have direct decision-making power over the media."</p> <p>Article 19, <i>Memorandum</i>, p. 7.</p>	<ul style="list-style-type: none"> Government, regulatory bodies or commercial interests do not influence, or seek to influence, editorial content of broadcasters or press Broadcasters are not required to allocate broadcasting time to, or carry specific broadcasts on behalf of government <p>UNESCO, <i>Media Development</i>, Indicator 1.3.</p>

Ownership and licensing

Principles:	Key indicators:
<p>"There should be no restrictions on the right to freely establish press and publishing bodies."</p> <p>Article 19, <i>Memorandum</i>, p. 6.</p> <p>"Periodicals should not be subject to a licensing regime; anyone who wishes to produce a publication should be allowed to do so without restraint."</p> <p>Article 19, <i>Memorandum</i>, p. 5.</p>	<ul style="list-style-type: none"> Government, regulatory bodies or commercial interests do not influence, or seek to influence, editorial content of broadcasters or press <p>UNESCO, <i>Media Development</i>, Indicator 1.3.</p>

4. Specific restrictions on media freedom

Restrictions on content and censorship

Principle:	Key indicators:
<p>"Broadcast content should never be subject to prior censorship either by the government or by regulatory bodies."</p> <p>Article 19, <i>Access to the Airwaves</i>, p. 2.</p>	<ul style="list-style-type: none"> Broadcasting or print content is not subject to prior censorship, either by government or by regulatory bodies Broadcasters and print publishing houses are not required to register with or obtain permission from a public body Broadcasters or print publishing houses are not closed or threatened with closure because of the content of their programmes or publications There are no explicit or concealed restrictions upon access to newsprint, to distribution networks or printing houses <p>UNESCO, <i>Media Development</i>, Indicator 1.11.</p>

Handout 3.7 (Cont.)

Restrictions on personnel

Principle:	Key indicators:
<p>“Restrictions on who may engage in various media professions have long been considered to breach international guarantees of freedom of expression and association.”</p> <p>Article 19, <i>Memorandum</i>, p. 7.</p>	<ul style="list-style-type: none"> • There are no provisions dictating who may practise journalism or requiring the licensing or registration of journalists • Fair and transparently implemented accreditation procedures for coverage of official functions and bodies <p>UNESCO, <i>Media Development</i>, Indicator 1.8.</p>

Defamation

Principle:	Key indicators:
<p>A good defamation law is a law “which aims to protect people against <i>false statements of fact which cause damage to their reputation</i>. This definition contains four elements. In order to be defamatory, a statement must:</p> <ul style="list-style-type: none"> • be false; • be of a factual nature; • cause damage; and • this damage must be to the reputation of the person concerned, which in turn means that the statement in question must have been read, heard or seen by others.” <p>Article 19, <i>Defamation ABC</i>, p. 1.</p> 	<ul style="list-style-type: none"> • Defamation laws do not inhibit public debate about the conduct of officials or official entities • Defamation laws provide for sufficient legal defences e.g. that the disputed statement was an opinion, not an allegation of fact; • that publication or broadcasting of the disputed fact was reasonable or in the public interest; • or that it occurred during a live transmission and/or before a court or elected body • Defamation laws provide for a regime of remedies that allow for proportionate responses to the publication or broadcasting of defamatory statements • The scope of defamation laws is defined as narrowly as possible, including as to who may sue • Defamation suits cannot be brought by public bodies whether legislative, executive or judicial • The burden of proof falls upon the plaintiff in cases involving the conduct of public officials and other matters of public interest • There is a reasonable cut-off date after which plaintiffs can no longer sue for an alleged defamation <p>UNESCO, <i>Media Development</i>, Indicator 1.9.</p>

Handout 3.7 (Cont.)

Sanctions

Principles:	Key indicators:
<p>"The guarantees of freedom of expression and association require not only that the substance of restrictions be proportionate but also that any sanctions for breach of those restrictions be proportionate."</p> <p>Article 19, <i>Memorandum</i>, p. 11.</p> <p>"Any sanctions for breach of regulatory rules relating to content should be applied only after the material in question has been broadcast."</p> <p>Article 19, <i>Access to the Airwaves</i>, p. 2.</p>	<ul style="list-style-type: none"> • Fines for breaches of rules are not excessive or disproportionate so as to function as a form of censorship • Sanctions for breaches of regulatory rules relating to content are applied only after the material has been broadcast or published <p>UNESCO, <i>Media Development</i>, Indicator 1.11.</p>

Other restrictive legislation

Principle:	Key indicators:
<p>"The law or regulation must meet standards of clarity and precision so that people can foresee the consequences of their actions. Vaguely worded edicts, whose scope is unclear, will not meet this standard and are therefore not legitimate. For example, vague prohibitions on 'sowing discord in society' or 'painting a false image of the State' would fail the test."</p> <p>Article 19, <i>Limitations</i>, paragraph 1.</p>	<ul style="list-style-type: none"> • Any restriction on grounds of protection of personal privacy is narrowly defined so as to exclude information in which there is no justifiable public interest • National security and other restrictive laws do not inhibit public debate about issues of public concern • Any restrictions are narrowly defined in law, rather than be subject to executive discretion • Such laws should be subject to a public interest override test where appropriate <p>UNESCO, <i>Media Development</i>, Indicator 1.10.</p>



Trainer Resource 3.1

Alternative scenarios of restrictions to media freedom

These scenarios are available for the trainer to use in case any of the groups in Activity 4 prefer not to work on a real-life scenario.

Scenario 1: Restrictions on content and personnel

You are a reporter for a national newspaper. You want to cover the deployment of the police force in the city on the occasion of a national religious celebration. During the celebration, you and your cameraman start filming the policemen deployed in the streets. Suddenly, one of them approaches you and demands you to stop filming, invoking the prohibition to film security personnel on duty. He confiscates your colleague's camera and his press card.

Questions:

1. Is the officers' behaviour legitimate or illegitimate? (Please argue either way.)
2. What arguments can you use to have the policeman return the camera and the press card to you?
3. What national or international bodies do you think you can approach to claim your rights?

Scenario 2: Protection of sources

You are a reporter for a local radio station. You have investigated a murder, which was allegedly committed by a 15-year old boy from the outskirts of your city. You have managed to get access to the alleged murderer in a secret location. In the interview that was broadcast, he claims that he is innocent. On the following day, the head of the police has entered your office and asked you to give him the name of this person, and his location. He threatens to take you to court if you don't comply with his orders.

Questions:

1. Is the officer's behaviour legitimate or illegitimate? (Please argue either way.)
2. What arguments do you bring forward to accept or refuse his request?
3. What national or international bodies do you think you can approach to claim your rights?

Trainer Resource 3.1 (Cont.)

Scenario 3: Role of regulatory bodies for broadcasting media

You are a reporter for a governmental TV station. You have received a call to appear in court for a documentary you have made on alleged cases of abuses involving high-ranking officials in the Ministry of the Interior. Despite the fact that you have based your reporting on authentic documentation, the High Media Council, whose directing board consists of members of the ruling party, has decided to ban your documentary from showing on your TV station.

Questions:

1. Is the High Media Council's decision legitimate or illegitimate? (Please argue either way.)
2. What arguments do you bring forward to ask for the documentary to be broadcast?
3. What national or international bodies do you think you can approach to claim your rights?



Trainer Resource 3.2

Information sheet: The three-part test (Extracts from Article 19's backgrounder)

In preparation for Activity 6, the trainer can use this information sheet to acquire in-depth knowledge of the three-part test that can be used to assess the legitimacy of any restriction against media freedom. At the end of the activity, the trainer may also choose to distribute a copy of this information sheet to the participants.

“1. First Part of the Test: ‘Provided By Law’

The first condition means, first and foremost, that an interference with the right to freedom of expression cannot be merely the result of the whim of a public official. There must be an enacted law or regulation which the official is applying. In other words, only restrictions which have been officially and formally recognised by those entrusted with law-making capacity can be legitimate. (...)

The legislation must also meet certain standards of clarity and precision, enabling citizens to foresee the consequences of their conduct on the basis of the law. Vaguely worded edicts, whose scope of application is unclear, will not meet this standard and are thus illegitimate restrictions on freedom of expression. For instance, a prohibition on “sowing discord in society” or “painting a false image of the State” would fail the test on account of vagueness. (...)

2. Second Part of the Test: Legitimate Aim

The second requirement for restrictions on freedom of expression is that they must serve a legitimate aim. This requirement is not open-ended; the list of legitimate aims provided in Article 19(3) of the International Covenant on Civil and Political Rights is exclusive and governments may not add to these. It includes only the following legitimate aims: respect for the rights and reputations of others, and protection of national security, public order, public health or morals. (...)

3. Third Part of the Test: Necessity

The final part of the test holds that even if a restriction is in accordance with an acceptably clear law and if it is in the service of a legitimate aim, it will still breach the right to freedom of expression unless it is truly necessary for the protection of that legitimate aim. (...)

In the first place, to justify a measure which interferes with free speech, a government must be acting in response to a pressing social need, not merely out of convenience. (...)

Second, if there exists an alternative measure which would accomplish the same goal in a way is less intrusive to the right to free expression, the chosen measure is not in fact ‘necessary’. For example, shutting down a newspaper for defamation is excessive; a retraction, or perhaps a combination of a retraction and a warning or a modest fine, would adequately protect the defamed person’s reputation. (...)

Third, the measure must impair the right as little as possible and, in particular, not restrict speech in a broad or untargeted way, or go beyond the zone of harmful speech to rule out legitimate speech. In protecting national security, for example, it is not acceptable to ban all discussion about a country’s military forces. (...)

Fourth, the impact of restrictions must be proportionate, meaning that the harm to freedom of expression caused by a restriction must not outweigh its benefits to the interest it is directed at. (...)

Finally, in applying this test, courts and others should take into account all of the circumstances at the time the restriction is applied. A restriction in favour of national security, which is justifiable in time of war, for example, may not be legitimate in peacetime.”

Note: This Information Sheet presents an extract from a backgrounder developed by the non-governmental organisation *Article 19*, based on Article 19 of the International Covenant on Civil and Political Rights (ICCPR). For more details, please refer to the Additional Resources (on page 47).



Trainer Resource 3.3

Answers to the media freedom and security sector governance test (see Handout 3.1)

In Activity 8, the trainer re-submits the media freedom and security sector governance test to the participants. Once the test is completed, the trainer can use this answer sheet to check the results of the test. The trainer may also choose to give this answer sheet to the participants.

1. Is media freedom enshrined in international law?

- d) Yes, in both Articles 19 of the United Nations Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966)

2. Is media freedom enshrined in the Constitution of your country?

Trainer provides answer accordingly

3. According to international law, restrictions against media freedom are necessary:

- b) For the protection of the rights and reputation of others, national security, public order, and/or public health and morals

4. The national legal framework for media's work:

- b) Includes mainly the constitution and all laws which regulate the written and broadcasting media

5. High media councils are:

- c) Fully independent bodies in charge of regulating the broadcasting media sector

6. The directing board of high media councils:

- c) Should ideally be appointed by parliament without the government's interference

7. The following institutions are in charge of enforcing media freedom in cases of gross abuses:

- d) Normal administrative courts, information commissioners, ombuds institutions or high media councils

8. Journalists' sources of information should:

- d) Be disclosed under very specific situations, when there is an overriding reason for it

9. Censorship prior to publication should be:

- a) Forbidden at all times

10. A journalist is:

- a) Free to refuse to cover a topic suggested by his editor-in-chief



Additional Resources

Standards and principles of media freedom:

- *Three-part test for assessing the legitimacy of restrictions against media freedom*, Article 19, available: <http://www.article19.org/pages/en/limitations.html>
- *Memorandum on the 1995 Press Law of the Palestinian National Authority*, Article 19, available: <http://www.article19.org/pdfs/analysis/palestine.prs.99.pdf>
- *Access to the Airwaves. Principles on Freedom of Expression and Broadcast Regulation*, Article 19, available: <http://www.article19.org/data/files/medialibrary/2633/11-08-08-STANDARDS-access-to-airwaves-EN.pdf>
- *Defamation ABC. A simple introduction to key concepts of defamation law*, Article 19, available: <http://www.article19.org/data/files/pdfs/tools/defamation-abc.pdf>
- *Freedom of Expression. Enforcement*, available: <http://www.article19.org/pages/en/enforcement.html>
- *Freedom of Expression. Limitations*, available: <http://www.article19.org/pages/en/limitations.html>
- *Freedom of Information Training Manual for Public Officials*, available: https://www.iprs.si/fileadmin/user_upload/Pdf/Publikacije_ostalih_pooblascencev/Article_19_foitainersmanual.pdf

Media Development Indicators:

- UNESCO's Media Development Indicators: A framework for assessing media development (Category 1: *A system of regulation conducive to freedom of expression pluralism and diversity of the media*), available: <http://unesdoc.unesco.org/images/0016/001631/163102e.pdf>

Ranking of countries according to the level of media freedom:

- Reporters without Borders: <http://en.rsf.org/press-freedom-index-2011-2012,1043.html>

DCAF's media and security sector governance publications:

- *The Palestinian Media and Security Sector Governance*, 2009, available: <http://www.dcaf.ch/Publications/The-Palestinian-Media-and-Security-Sector-Governance>
- *Access to Information and Security Sector Governance*, 2010, available: <http://www.dcaf.ch/Publications/Access-to-Information-and-Security-Sector-Governance-Reference-Text-Reader>
- *Palestinian Media Legislation and Security Sector Governance*, 2011, available: <http://www.dcaf.ch/Publications/Compilation-of-Reference-Texts-Palestinian-Media-Legislation-and-Security-Sector-Governance>