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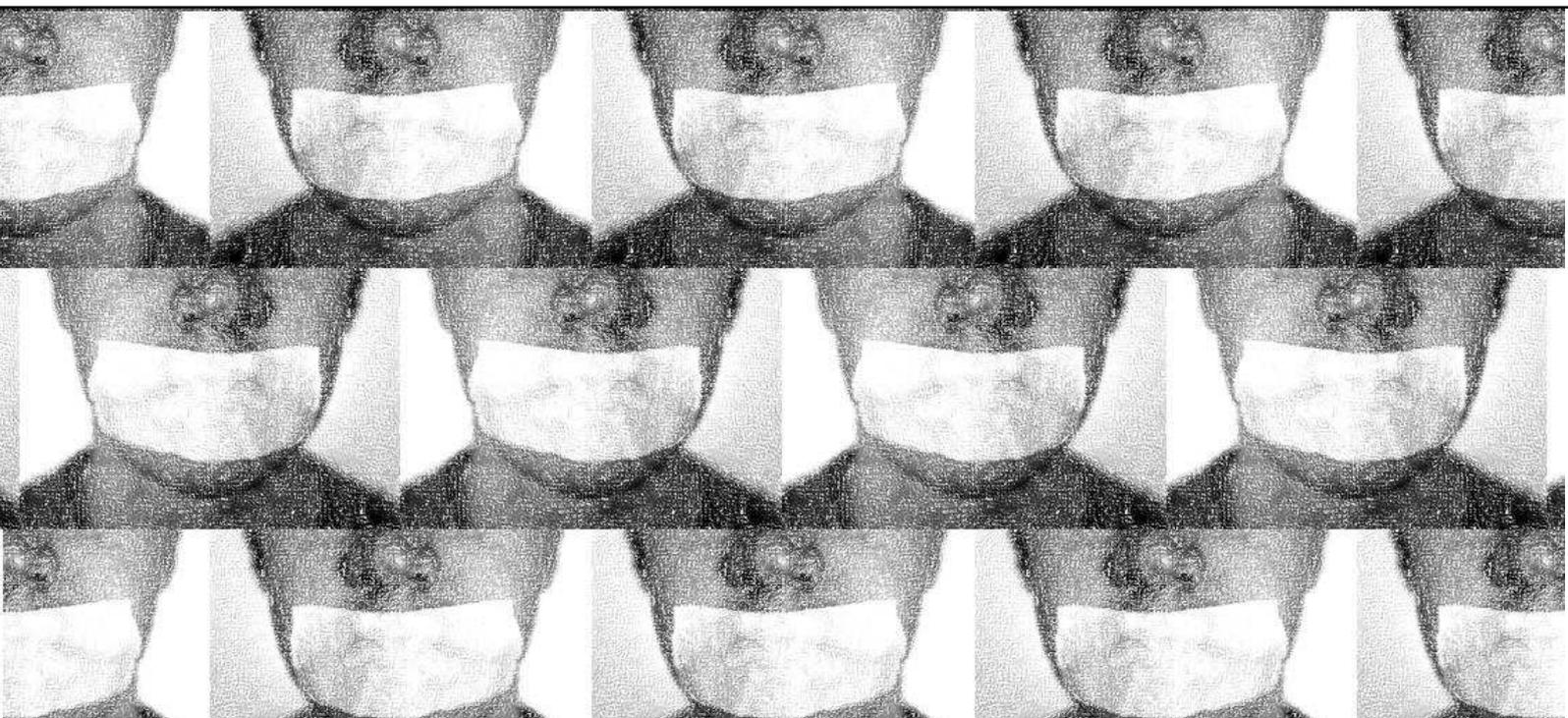
Defining freedom of the press:
A cross national examination of press ethics and
regulation

Working Paper Series

DFoP: Scope and parameters of the project

John Steel
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Joe Saunders
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Executive Summary

This working paper outlines the context and particulars of the AHRC-funded project, *Defining freedom of the press: A cross-national examination of press ethics and regulation*. It sets out the scope of the project and outlines the methodological approaches used, as well as describes the targeted research impact. The project consists of a team of interdisciplinary academic experts reflecting the areas of inquiry that this project addresses: journalism studies, media and communication, linguistics, philosophy, and law.

In summary, the aims of this project are:

1. To provide a non-partisan yet 'integrated' formulation of 'freedom of the press', which is based on an analysis of the various codes of journalism ethics and regulatory mechanisms of 12 prominent European nations in the World Press Freedom rankings (2018): Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Netherlands, Norway, Slovakia, Sweden, Switzerland.
2. To assess the ways in which the normative principle of press freedom is understood and operationalised by news workers, civil society actors and user groups across these countries.
3. To develop evidence-based recommendations that can be used to inform a code of ethics for UK press regulators (IPSO and IMPRESS).
4. To identify other domestic news media producers as members of 'the press', such as those in the digital environment, who would benefit from these recommendations, and identify how and in what ways they may make a practical use of a code of ethics.
5. To benefit the wider news media industry, as well as society, by outlining how and why ethical codes of practice are important to news work and broader democratic culture.
6. To outline a functioning definition of press freedom and provide recommendations to help inform the development of Government policy on press regulation in the UK.

In summary, the project contributes to existing knowledge by gaining a richer understanding of how press regulation operates in practice, domestically and in continental Europe.

Keywords: journalism ethics, journalism, media ecology, news work, press ethics, press regulation, stakeholders

1. Introduction

This research project addresses the tension between normative ethical considerations of news production and the practicalities of regulating news work. As such, the principle and practices of freedom of the press operate on different conceptual planes with ethical frameworks struggling to fit into, or relating to, applied contexts (Fengler et al., 2015). Evidence of this tension can be observed in the debate about press ethics and responsible journalism, as it is often argued that 'freedom of the press' goes beyond the realms of responsible journalism (Schlosberg, 2016; Schlosberg, 2013; Josephi, 2013). This is seen where headlines targeting minority groups, vulnerable individuals, public figures and victims of crime continue to fill the front pages and websites of major popular news organisations. Moreover, the online environment has generated a set of practical and ethical challenges for news organisations and journalists, where the distinction between 'professional' and 'non-professional' is unclear (Beckett, 2010: 1).

In response to these challenges, this project develops an articulated concept of freedom of the press that meets the challenges of normative and empirically-based media ethics, which encompass both traditional (legacy) media and the new digital news media environment. Britain's decision to leave the European Union in June 2016, and several recent terror attacks in the UK has, amongst other things, placed the status and viability of the Human Rights Act (1998) and the debate about a new British Bill of Rights (Bowcott, 2016), centre stage. With this, there is a concern about the potential recasting of certain rights enshrined in European law; most notably, Articles 10 and 8 and provisions that safeguard freedom of expression, freedom of the press, and the right to privacy (Council of Europe, 1950: 5-6).

In the UK prior to the Human Rights Act, the principle and legal status of freedom of the press developed over centuries with the remaining levies on the press being removed in 1855 (Boyce et al., 1978). The growth and expansion of the commercial press thereafter signalled the central role that the press had in British life (Conboy, 2004). However, by the mid-1930s, members of the public, politicians, and journalists became increasingly concerned about the influence that newspaper proprietors had on political debate, and the effect that a commercial imperative had on journalism (O'Malley and Soley, 2000). This

prompted the first Royal Commission on the Press (1947-1949), which addressed ownership and management of the press in the wake of concerns about the quality of journalism in Britain (Bingham, 2007: 89). Despite the fact that there have been seven official reports into the British press since 1947,¹ press ethics and regulation remain a part of controversial and highly charged debates.

2. Situating the research

In the wake of the public outcry against the unethical practices of the *News of the World* newspaper in 2011, the Leveson Inquiry was established in order to examine the culture, practices and ethics of the press. Following the Inquiry, Lord Justice Leveson was critical in his report about the way the British press was (mis)using its power (2013). He set out recommendations for a system of independent self-regulation of the press that could help correct these misappropriations. The coalition government and official opposition subsequently developed a framework consisting of the Royal Charter on Self-Regulation of the Press (2014), and related measures in the Enterprise and Regulatory Reform Act 2013, and the Crime and Courts Act 2013, in order to put these recommendations on a statutory footing.²

There are to date two bodies undertaking the challenge of domestic press regulation: The Independent Press Standards Organisation (IPSO) , representing the bulk of the mainstream newspapers and magazines; and The Independent Monitor for the Press (IMPRESS), which at present regulates smaller community-based outlets and actors within the digital spectrum. Though in September 2016, IMPRESS gained official recognition as a “Leveson-compliant” regulator (Woodhouse, 2018: 5), IPSO is perceived by the government and the industry as the main regulator of the press in the UK. In contrast to IMPRESS, IPSO

¹ These are: *An inquiry into the culture, practices and ethics of the press* (2013); *Review of press self-regulation* (1993); *Report of the Committee on privacy and related matters* (1990); *Report of the Royal Commission on the press* (1977); *The final report of the Commission* (1961-1962); *Royal Commission on the Press* (1947-1949); *Report on the British Press* (1938); see bibliography for full references.

² One of the most challenging components of the Crime and Courts Act 2013 was Section 40, which placed cost liabilities on publishers who were not signed up to the official press regulator IMPRESS. In March 2018, following pressure from the press industry, the Government indicated that it would scrap Section 40 and not pursue a follow-up to the Leveson Inquiry, which was intended to investigate the relationship between the press and police (Sweney, 2018).

has consistently taken a stand against any statutory approach to press regulation as this, in its view, would undermine the principle of voluntary self-regulation and therefore the very principle of freedom of the press.

Significantly, the new architecture for press regulation is being developed within a context of what is still an inward-facing discussion about the UK experience. The isolationism that has characterised the debates about domestic press ethics has previously impeded the possibility of benchmarking and learning from other societies; ones in which problems of ethics and regulation have been addressed by legislators, journalists, and the general public. By examining the top European nations in the current World Press Freedom rankings (Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Netherlands, Norway, Slovakia, Sweden, Switzerland), this project develops a set of evidence-based recommendations to UK regulators that may provide a benchmark for existing press codes of ethics.

This project also aims to provide a functioning definition of freedom of the press that is situated within normative ethics and applied practice. It develops knowledge and understanding of how press councils in comparable jurisdictions from around Europe approach the difficult questions of media ethics and balancing freedom and responsibility. It aims to help both press regulators and news organisations to review and update future iterations of their codes and related guidance. It also reflects the concerns of civil society organisations who seek accurate representations of their causes.

By examining how the press councils in these countries intersect with the law (for example: *Do they have statutory status or recognition? Are their judgments recognised by the courts? How do their codes overlap with the law?*), we gain a much richer understanding of how press regulation operates in practice, rather than in theory. This offers the possibility of learning from best practice in terms of what can work and what can be viable in addressing issues around press self-regulation. By holding them accountable to more comprehensive standards, this research aims to allow regulators to help publishers achieve a new status and profile, which in turn allows them to pursue the classical liberal rationale for journalism as ‘watchdog’ or ‘fourth estate’ (Hanitzsch and Vos, 2018: 154), as well as challenge the hegemony of the corporate press. This research could therefore have far-reaching social impact given the technological and societal changes that the current news

landscape faces, not only in producing viable and sustainable codes of conduct, but also in helping to strengthen this aspect of the contemporary British media ecology. This is where our interest in studying the selected countries' codes of ethics is situated.

As identified by Eberwein and Porlezza (2016: 328), the rapidly changing contexts of journalism and news work has meant that there has been significant disruption within the realm of media ethics and media practice. This in turn means that researchers “cannot solely rely on philosophical reasoning, but must also develop an appropriate interest in and knowledge of empirical communication and media studies” (Ibid.: 338). A combination of speed of change within diverse communication landscapes and the requirement to develop an integrated set of ethical criteria, means that there is a need to build on existing research related to how these issues are addressed when it concerns, for example, how press councils address new media environments (Fielden, 2012: 34-38), as well as citizen journalism and hyperlocal media ecologies (Coleman et al., 2016a), in the contemporary British context.

3. Research structure

The research structure of the project involves four progressive stages over the course of two years, each addressing at various points the below research questions.

3.1. Research questions

RQ1: How is freedom of the press formulated and understood within the regulatory environment of European nations that are at the top of the press freedom rankings?

RQ2: What historical and cultural factors have contributed to the principles and practices of freedom of the press in each of these countries?

RQ3: What benchmarks can be applied to the regulatory environment of the UK press?

RQ4: What range of purposes can a press code of ethics serve?

RQ5: How do news workers and civil society actors understand and practice freedom of the press?

RQ6: How are the wider implications of press freedom reformulated and how would this intersect with existing and developing legal frameworks in the UK?

3.2. Four stages of research

In **Stage 1 (months 1-5)**, there is the identification of the key themes and particular regulatory environments that exist in the selected countries (Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Netherlands, Norway, Slovakia, Sweden, Switzerland), in order to respond to the project's first and second research questions (RQ1, RQ2). The research team then examines each country's historical and cultural parameters that have shaped their ethical contexts, by analysing the codes of ethics for journalism (and in some instances, media as well), in order to answer the project's first research question (RQ1). The methods consist of Critical Discourse Analysis (Fairclough et al., 2011), Thematic Analysis (Braun and Clarke, 2006), and Phenomenographic Analysis (Kinnunen and Simon, 2012), where the codes of ethics from the selected countries' press councils, as well as the complaints procedures from the selected five interview countries are examined.³ A project bibliography is also compiled, encompassing the rich and interdisciplinary themes within journalism studies, media and communication, linguistics, philosophy, and law.

Next, **Stage 2 (months 5-12)**, consists of interviews with seven stakeholders from each of the five countries from the current, top-ranked nations: Norway [1], Netherlands [3], Finland [4], Switzerland [5], Belgium [7], and Denmark [9] (RSF, 2018); in order to understand the ways in which freedom of the press is understood and experienced within these ethical and regulatory environments. Stakeholders here include established journalists, representatives of new media start-up organisations, media-centred campaign groups, and user groups in each country who benefit from, or who are working toward, greater media freedom. The analysis from the interview transcripts responds to three of the project's research questions (RQ1, RQ2, RQ5).

In **Stage 3 (months 12-18)**, after the analysis of the various ethical codes and the interviews with selected European stakeholders, findings of the European phase of the project are presented to a range of UK stakeholder groups in a series of workshops. These workshops

³ Translations of these were provided by a professional translation service, where needed.

are to be used to identify benchmarks that aid in refining a present-day concept of freedom of the press, and in turn respond to three of the project's research questions (RQ3, RQ5, RQ6). These benchmarks would potentially apply to the UK regulatory environment by providing an assessment of how press freedom is actualised domestically. The stakeholder workshops involve representatives from the UK journalism sector, regulators, and media freedom advocacy groups. These workshops are designed and implemented in the form of research focus groups.

Finally, in **Stage 4 (months 18-24)**, the project assesses the range of purposes that an integrated code of ethics might serve, before exploring how the research findings can be incorporated into practice in the UK. This element responds to the last research question of the project (RQ6). Additionally, capacity-building workshops incorporate the perspectives of user groups and representatives of minority rights organisations. In addition to presenting our findings to stakeholders in a final project report, we plan to deliver our report and request the opportunity to give a presentation to the Culture, Media and Sport Committee of the UK Parliament. The motivation here is to provide findings that may contribute to the development of legislation in this area, with a view to enhance our understanding of freedom of the press in the contemporary British media ecology. This stage of the project therefore engages more fully with academic, regulatory, industry and civil society beneficiaries, by contributing to both an academic discourse as well as a practitioner and civic discourse.

3.3. Research design

The table below outlines the methods of data collection and methods of data analysis over the course of each of the project's stages:

Table 1: Research design: Overview		
	Data collection	Data analysis
Stage 1	Codes of ethics Complaints procedures <i>Sources: European press councils</i>	Critical Discourse Analysis Thematic Analysis Phenomenographic Analysis
Stage 2	Transcripts Stakeholder interviews (x35) <i>Participants: European journalists, representatives of new media start-ups, media-centred campaign groups</i>	
Stage 3	Transcripts Stakeholder workshops (x3) <i>Participants: UK journalism sector representatives, regulators, media freedom advocacy groups</i>	
Stage 4	Transcripts Capacity-building workshops (x2) <i>Participants: UK citizen rights organisations</i>	
Policy-based dissemination		
Stage 3	Project report to stakeholders	
Stage 4	Report to Parliament	

3.4. The research team

The research team brings a wide range of expertise to the project.

The project has two management team members. **Dr John Steel** (Principle Investigator), specialises in journalism ethics and media freedom (Steel, 2013; Steel, 2012). His most recent work examined how normative claims are integrated with journalistic role perceptions and how they are interpreted by publics and audiences (Eldridge II and Steel, 2016). He has also examined the normative and ethical goals of movements in media reform (Steel, 2016). **Dr Charlotte Elliott-Harvey** (Postdoctoral Research Associate), recently completed her PhD in Communications Studies, with a focus on free speech. Her work includes conceptualising hate speech in diverse contexts (Elliott et al., 2016), but also how media controversies on free speech impact society in comparative country contexts (Elliott-Harvey, 2018).

The project has five Co-Investigators. **Professor Martin Conboy** is a journalism historian, specialising in historical and contemporary British popular press (Bingham and Conboy, 2015; Conboy, 2011; Conboy, 2010). **Dr Julie Firmstone** is a media and communications expert, specialising in regional journalism and online community engagement with politics (Coleman et al., 2016b; Firmstone and Coleman, 2015b; Firmstone and Coleman, 2015a), as well as having expertise in digital journalism, audience engagement, and transnational press (Firmstone, 2016; Firmstone, 2008). **Dr Carl Fox** is an applied philosopher, having published on social contract theory (Fox, 2018), and public reason and objectivity in journalism (Fox, 2013). **Dr Jane Mulderrig** is a linguist specialising in using critical discourse analysis to investigate questions of identity, power, and representation in public life (Fairclough et al., 2011). **Dr Joe Saunders** is an applied ethicist, published in 18th and 19th Century European thought (Williams and Saunders, 2018). **Dr Paul Wragg** specialises in privacy law and the legal aspects of press freedom and press regulation (Wragg, 2016), and currently sits on the Code Committee at IMPRESS.

4. Planned research impact: Five target groups

This project has the potential to address five overlapping groups, all of whom are either working within the journalism industry or are impacted by it. The **first group** consists of stakeholders, primarily individual traditional and citizen journalists. The **second group** consists of various regulatory and ethical bodies. These entities have a particular interest in monitoring abuses of the press and representing the wider public. The **third group** includes organisations that focus on issues on journalism ethics and freedom of the press, and campaign for greater media accountability and transparency. The **fourth group** includes organisations representing minorities that have historically been unfairly treated by factions of the press. The final and **fifth group** consists of the wider public, where information on the importance of maintaining a democratic culture when it concerns freedom of the press is situated in understanding how and why ethical codes of practice are important to news work.

The table below outlines the key beneficiaries and the type of impact that might occur:

Table 2: Project target groups	
WHO BENEFITS?	WHAT MIGHT CHANGE?
JOURNALISTS	
Individual citizen and traditional journalists	Journalists might reflect on the broader scope of press ethics and regulation, given the international environment and range of new challenges and opportunities within the media ecology.
REGULATORY BODIES	
Regulatory bodies and organisations that have developed their own ethical codes of practice	Regulators and organisations with their own set of ethical guidelines might adapt their ethical codes of practice.
ORGANISATIONS	
Organisations, participants and stakeholders, mainly within the UK but also in continental Europe	A more developed definition of the principle and practice of freedom of the press could be incorporated into their own specific programmes and press ethics principles.
MINORITY GROUPS	
Minority groups and organisations that have regularly been subject to discrimination and abuse within the press	The delineation of press ethics parameters could aid in stifling negative representations of discriminated groups, by enabling them to identify and challenge breaches of conduct.
THE GENERAL PUBLIC	
The domestic general public, that is, society at large	The project envisages that a more thorough examination of the parameters of freedom of the press explains how and why ethical codes of practice are important not only to news work but also to broader democratic culture.

Other impact-related activities

Impact-related activities are factored into the research process from the start of the research. Firstly, a project website is developed throughout the duration of the project, and it provides information about the research process and progress of the project.⁴ A project Twitter account is also active throughout the duration of the project, allowing for the exchange of ideas and announcements about the project.⁵ A three-week public exhibition centred on the history and role of the press, emphasising the traditions and controversies surrounding freedom of the press, will be open to all members of the public at the end of the project.

5. Toward a definition of freedom of the press

In 1977, the Royal Commission on the Press provided this definition of “freedom of the press”:

We define freedom of the press as that degree of freedom from restraint which is essential to enable proprietors, editors and journalists to advance the public interest by publishing the facts and opinions without which a democratic electorate cannot make responsible judgements. (para. 2.3.)

At first sight, this definition offers a clear explanation of what press freedom is, yet the question that remains is how “freedom from restraint”, in the sense of freedom of expression, is balanced against a notion of “freedom under responsibility” when it concerns matters of the public interest that further and advance society in cultural, social, and political terms. This is where a discussion on press ethics and regulation comes in, because a notion of “freedom under responsibility” will always fall under the jurisdiction of Government. In other words, freedom of the press must be assured, to some degree, by a government that allows a free and independent press, including one that is, for example, critical of government.

⁴ The project’s website is: defining-freedom-of-the-press.info, online until May, 2023.

⁵ The project’s Twitter handle is: [@NewsWorkEthics](https://twitter.com/NewsWorkEthics), online indefinitely.

Yet how we understand and define concepts change as they are put into practice. This is where the dangers today of misinformation, in the form of “fake news” comes in. Here, concern over publishing fact and opinions become secondary to achieving a particular goal. The most recent example of this would be the purported Russian interference with the 2016 U.S. Presidential campaign, and the suspected current interference with the U.S. midterm elections (Yourish and Griggs, 2018). Another example would be the banning of conspiracy theorist Alex Jones from several online platforms, in a move against hate speech (BBC, 2018), but also in a likely move to prevent the propagation of misinformation. The questioning of issues such as these by the press enables readers and audiences to meaningfully engage in the public debate about them, however, the quality of this engagement is also reliant on core journalistic principles.

The invocation of freedom of the press through the practice of journalism should be contingent on five values: accuracy, impartiality, accountability, independence and due regard for human dignity (Ethical Journalism Network, 2018a). All of these concepts are based on notions of trust. **Accuracy** means that the facts must already be verified as correct, and transparency on how these facts are obtained must be explained in a way that would not bring harm to their sources. **Impartiality** here would mean that an absence of bias, or at least an acknowledgement of how opinions are informed, must be acknowledged. **Accountability** is important because how facts and established truths are put into the public domain means that pieces of news, in and of themselves, contribute to how events become legitimised, and with authorship comes responsibility in this legitimisation. **Independence** means that entities must not be at the service of particular political or financial means and ends, and is an area that is of particular concern with regard to the structures of corporate press and press politics. **Due regard for human dignity** is involved when it concerns, for example, the invasion of privacy or lack of sensitivity to vulnerable sources of, or targets of, news.

The practice of journalism and how it is tied to freedom of the press is intricately involved in how engagement with various forms of power and political influence are researched and questioned by the media. The dissemination of facts and established truths must apply a context and in turn challenge readers and audiences to questions these. Yet there are questions that must be asked: *Who is motivated to have the story told a certain way? What benefit might they be getting from this? Is this for the public good?* These are all tied to

core philosophies in what producers and receivers of news perceive the role of the press to be. Here, we might consider utilitarianism and notions of the “greater good” of the majority (Driver, 2014; see: Mill, 1859 [2015]; Bentham, 1823 [2008]), but this must be tempered against considering vulnerable or underrepresented groups in society.⁶

This project aims to explore how and in what ways freedom of the press is conceptualised and understood in the contemporary context. There are certain factors that act as catalysts for change, and what we see is that we live in a world where news does not just travel, it flies at speeds that means that the push to be the first to share news, perhaps without thinking of the consequences, or questioning the action first, means that the rate at which we receive, impart, and process information does not allow us to reflect on, and consider matters thoroughly and critically. This raises important questions on how we communicate, either as producers of news or as receiving audiences, not just in our physical world but also in a virtual, and often parallel online world. This in turn affects how we establish consensus as citizens when it concerns keystones of democratic society, like what freedom of the press is, what it means, or why its preservation is so important.

⁶ Credit for content in this paragraph is due to the Ethical Journalism Network’s online toolkit for journalists, as cited in the bibliography.

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