

# **Toolkit: Legal Pathways for Women Journalists in and from North Africa**

This toolkit is meant to serve as a guiding document for women journalists from or in North Africa who have experienced human rights violations in the course of their work and who would like to document these violations or seek recourse for them by making a submission to United Nations, regional, or foreign mechanisms.

## ***Preliminary Checklist to Consider***

Although having a lawyer or working with a civil society organization is not required for you to be able to make a submission to most of the mechanisms featured in this toolkit, it is strongly encouraged to seek legal advice or representation as lawyers and/or organizations with experience often have extensive practical experience that can help determine which mechanism is the most appropriate for you to pursue.

Here are some questions to reflect on, ideally alongside a lawyer and/or civil society organization, if you are considering taking action in response to a violation or violations that you have experienced.

### **Core Allegations**

- What type of harm did I experience?
- Who am I seeking to hold accountable?
- What types of remedies am I seeking?

### **Logistics and Security**

- Have I found a lawyer and/or civil society organization to support me in the process of submission if I would like to have one?
- Will I be personally responsible for any financial fees or any costs associated with making a submission?
- How much evidence do I need to collect to support my case?
- Am I required to exhaust domestic remedies before making a submission?
  - If so, what domestic remedies have I already pursued?
- How much risk is associated with making a submission?
  - Do I fear personal retribution or reputational damage?
  - Will there be any political backlash from the government if I pursue this case and it becomes known that I have done so?
  - What precautionary measures can I take to ensure my personal safety?

### **Impact and Expectations**

- How will making a submission advance my case?
  - What are the overall goals and objectives of my pursuit of this case?
  - Is the desired outcome about making an impact in a single case?

- Is the desired outcome about advancing legal reform in my country or broader social change in the region and/or internationally?
- How responsive is the mechanism I am considering in addressing the type of human rights violations that I am alleging?
- What impact will a decision from the selected mechanism have?

### ***Identifying the Available Mechanisms***

There are several international, regional, and foreign mechanisms that can adjudicate rights violations or abuses experienced by journalists and offer some form of recourse. Some of these mechanisms require that domestic remedies be exhausted before they receive a complaint. If domestic remedies are exhausted or not available, external mechanisms like these may provide a form of relief by serving as a forum for documentation or creating momentum for policy change or redress, though there may be challenges with enforcement.

Whether pursuing recourse as an individual or group, lawyers or civil society organizations can be very helpful in guiding journalists who have faced violations through the procedures of these various legal pathways or providing direct technical support to them. The following are some of the primary available mechanisms that women journalists from or in North Africa can bring allegations of human rights violations to.

### **UN Special Procedures**

The Special Procedures of the United Nations Human Rights Council are independent human rights experts, designated as either Special Rapporteurs, Independent Experts, or Working Groups. Every special procedure holds either a thematic or country-specific mandate.

Women journalists from and in North Africa can leverage the special procedures to highlight their grievances by filing a communication about their individual case, or by providing information to them to supplement their reports and country visits.

Examples of relevant special procedures may include:

- The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression;
- Special Rapporteur on the situation of human rights defenders;
- Special Rapporteur on violence against women and girls, its causes and consequences;
- Special Rapporteur on the right to privacy;
- Special Rapporteur on counter-terrorism and human rights;
- Working Group on discrimination against women and girls;
- Working Group on arbitrary detention;
- Working Group on enforced or involuntary disappearances.

## **UN Treaty Bodies**

The UN has established treaty-based bodies, which are committees that monitor states' compliance with their obligations under human rights treaties. These committees produce reports and make recommendations to states, which can bring increased awareness and international pressure to comply with international human rights law. These treaty bodies can also provide general comments on thematic issues or methods of work. Women journalists from or in North Africa are able to submit general information for consideration when these reports are being drafted.

Committees that may be relevant to the situation facing women journalists in or from North Africa include:

- The Human Rights Committee
- The Committee on the Elimination of Discrimination against Women
- The Committee against Torture
- Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

Additionally, women journalists from or in North African can submit individual complaints about a particular case if:

- The state has recognized the committee's competence by ratifying the Optional Protocol to the treaty;
- The victim is personally and directly affected by the law, policy, practice, act, or omission of the state;
- The alleged violation relates to a right protected by the treaty;
- The complaint is sufficiently substantiated;
- The victim has exhausted all relevant remedies that are available in the state before bringing a claim to the committee.

Countries that have ratified the Optional Protocol for human rights treaties that may be relevant to the situation facing women journalists in or from North Africa include:

- The Human Rights Committee (Algeria, Morocco, Libya, and Tunisia)
- The Committee on the Elimination of Discrimination against Women (Morocco and Tunisia)
- The Committee against Torture (Libya Algeria, Morocco, and Tunisia)
- Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Morocco, Mauritania, and Tunisia)

## **African Court on Human and Peoples' Rights**

The African Court has jurisdiction to hear cases concerning violations to the African Charter on Human and Peoples' Rights (African Charter), the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (Protocol), and any other relevant human rights instrument ratified by the *concerned* states. The case must involve allegations of human rights and those alleged violations must have taken place in the state after it ratified the Protocol, *unless* the alleged violations are ongoing.

Complaints should not be filed before parties exhaust domestic remedies within a reasonable timeframe and should include specific provisions to the African Charter that are alleged to have been violated.

The African Court can hear cases brought against countries that have ratified the Protocol (Algeria, Libya, Tunisia, and Western Sahara).

Individuals and NGOs can make a direct submission to the African Court against a country only if that country deposited the Special Declaration under Article 34(6) of the African Court Protocol. In North Africa, the only country that has done so is Tunisia. Accordingly, other interested parties from Algeria, Libya, and Western Sahara can only access the African Court via a petition to the African Commission on Human and Peoples' Rights (African Commission), which then decides whether to refer their case to the Court.

### **African Commission on Human and Peoples' Rights**

The African Commission on Human and Peoples' Rights has jurisdiction over the rights laid out in the African Charter. Among the Commission's duties includes adjudicating complaints submitted by states, individuals, and NGOs. Articles 55 and 56 of the African Charter grants individuals the right to send communications directly to the African Commission.

Complaints should not be filed before parties exhaust domestic remedies within a reasonable timeframe and should include specific provisions to the African Charter that are alleged to have been violated.

### **Universal Jurisdiction in Foreign Courts**

Accountability for widespread and systematic violations against women journalists from or in North Africa could potentially be pursued in foreign courts under the principle of universal jurisdiction. Under this principle, national authorities may prosecute individuals for core international crimes including genocide, crimes against humanity, war crimes, and torture.

For more information on universal jurisdiction and whether it may apply in your case, *see* Trial International's Universal Jurisdiction Database and Clooney Foundation's Justice Beyond Borders Project.