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Request for partner for democracy status with the Parliamentary Assembly submitted by the Palestinian National Council

Opinion¹

Committee on Equal Opportunities for Women and Men

Co-rapporteurs: Ms Carina HÄGG, Sweden, Socialist Group, and Ms Carina HÄGG, Sweden, Socialist Group

A. Conclusions of the committee

1. The Committee on Equal Opportunities for Women and Men shares the conclusion of the Political Affairs Committee that the Palestinian National Council should be granted partner for democracy status with the Parliamentary Assembly.
2. It also shares the view that becoming a partner for democracy with the Parliamentary Assembly can be an incentive to further develop democracy, the rule of law and protection of human rights in the territories under the authority of the Palestinian National Authority.
3. The committee appreciates the inclusion of a gender perspective in the report and draft resolution, in particular at paragraph 12.5. This paragraph refers to equal opportunities, non-discrimination and equality for women and men as issues of key importance for strengthening democracy, the rule of law and the respect for human rights and fundamental freedoms in the Palestinian territories.
4. As polygamy constitutes a violation of human rights, the committee considers that it should be mentioned in paragraph 12.5 of the draft resolution amongst the forms of discrimination that must cease in law and in practice, if necessary by means of legislative revision. Similar considerations apply to the lack of equality in family law, in particular as regards the discriminatory position of women in the context of marriage and divorce.

B. Proposed amendment to the draft resolution

Amendment A (to the draft resolution)

In the draft resolution, paragraph 12.5, replace the words “inter-religious marriages” with the words:

“marriage, divorce, polygamy;”

1. Reference to committee: Bureau decision, Reference 3729 of 24 January 2011. Reporting committee: Political Affairs Committee. See [Doc. 12711](#). Opinion approved by the committee on 3 October 2011.



C. Explanatory memorandum by Ms Hägg, rapporteur for opinion

1. Gender equality and women's rights in the context of partner for democracy status

1. Gender equality is a core element in the context of the procedure to obtain the status of partner for democracy.
2. The request for such a status should include an explicit reference to the aspiration of the applicant parliament to embrace the values of the Council of Europe, which are pluralist and gender parity-based democracy, the rule of law and respect for human rights and fundamental freedoms. It should also include a commitment to encourage balanced participation of women and men in public and political life.²
3. Furthermore, the parliamentary delegation enjoying partner for democracy status should, insofar as the number of its members allows, be composed so as to ensure a fair representation of the political parties or groups in that parliament and to include at least the same percentage of the under-represented sex as is present in the parliament, and in any case one representative of each sex.³
4. In the light of my mandate as rapporteur of the Committee on Equal Opportunities for Women and Men, in the present opinion I shall take stock of the situation of gender equality in the territories under the Palestinian National Authority, highlighting achievements and remaining challenges.

2. Women's representation in politics

2.1. At parliamentary level

5. Women account for 7.5% of the Palestinian National Council (56 out of 744 members). Thanks to a quota system, the share is higher (around 13% and 17 members out of 132) in the Palestinian Legislative Council, which forms part of the Palestinian National Council. The General Elections Law (No. 9 of 2005) introduced a quota system: political parties must have at least one woman among the first three candidates on the list, at least one woman among the next four, and one woman among every five for the rest of the list.
6. None of the 14 parliamentary committees of the Palestinian Legislative Council deals specifically with women's rights and gender equality. These fall within the mandate of the Social Affairs Committee.

2.2. Within the government

7. After the establishment of the Palestinian National Authority in 1994, many of the negotiating teams were institutionalised as ministries. The Women's Affairs Technical Committee submitted a proposal to establish a Ministry of Women's Affairs but the proposal was not accepted at that time.
8. A gender unit was established in 1996 to co-ordinate the work of gender units in other ministries. The Ministry of Women's Affairs was created in 2003, following nearly a decade of lobbying by the Women's Affairs Technical Committee. The main objectives of this Ministry are to address gender inequalities and improve the status of women, in particular by means of new legislation and amending existing legislation. Due to the highly unstable political conditions, the mission of the Ministry is particularly challenging.
9. Five women currently hold positions as cabinet ministers. Their portfolios are education, culture, women's affairs, tourism, and social affairs.

2.3. At local level

10. Under Law No. 10 of 2005 on the election of local councils, all lists must have a woman among the first five candidates and another in the next five. The law also guarantees that at least two women sit in every local council consisting of not more than 13 members and 3 women in those with 15 members. The latest election of representatives at the local level occurred in four stages (each covering a different cluster of locations) between 2004 and 2005. The share of women elected varied from 17% to 21%, partly through the general lists and partly as a result of reserved quotas. It clearly appears that quotas played a role in increasing the representation of women at local level. In one city, Ramallah, a woman was elected president of the municipality.

2. Rule 60.2 of the Assembly's Rules of Procedure.

3. Rule 60.4 of the Assembly's Rules of Procedure.

11. According to a study on women members of local councils in the West Bank, most of them (60%) said their motivations to run for office were related to their desire to promote women's rights, whilst 26.7% were motivated by an interest in politics in general.⁴

2.4. In political parties

12. Women constitute 25% of the General Congress of the Fatah Movement, 0% of its Central Committee (in 2009), 33% of its Revolutionary Council, and 11% of its expanded Movement Council. In the Popular Front, women comprise 10% of the General Central Committee, 20% of the Sub-Central Committee, 11% of the branch leadership and 10.2% of the branch congress. In the Democratic Front, women comprise 19.5% of the Central Committee in the West Bank and 16.5% in the Gaza Strip; 18% of the Central Leadership in the West Bank and 13% in the Gaza Strip; 17% of members of branch committees in the West Bank and 9% in the Gaza Strip; and 6% of the Politburo. In the Palestinian Democratic Union (FIDA), women comprise 30% of the Executive Bureau and 19% of the Central Committee. Women also comprise 20% of the Central Committee of the Popular Struggle Front and an average of 25% of all structures of the Palestinian Arab Front. No statistics are available on the proportion of women in Islamist parties.⁵

3. Gender equality in law

3.1. Declaration of independence and Basic Law

13. The Palestinian territories' public law is based on the Basic Law of 2002, considered as a temporary constitution, to be replaced, on the establishment of a Palestinian state, by the latest Draft Constitution.

14. The principle of equality is enshrined in Article 9 of the Basic Law, which reads: "Palestinians shall be equal before the law and the judiciary, without distinction based upon race, sex, colour, religion, political views or disability". The 1989 Declaration of Independence also proclaims the principle of equality between women and men and mentions partnership between men and women in pursuing development. The Declaration renders "special tribute to that brave Palestinian Woman", and enunciates that governance of the future Palestinian state "will be based on principles of social justice, equality and non-discrimination in public rights of men or women".

3.2. Private and criminal law

15. The Palestinian territories' legal framework is fragmented and complex, as a variety of legal systems coexist. Under the Oslo Accords of 1993, the Palestinian Authority has executive and legislative powers, but they are limited and incomplete. Legislation issued by the Palestinian Authority coexists therefore with that of Israel in the territories, with Egyptian law in the Gaza strip and Jordanian law in the West Bank. Rules inherited from former British and Ottoman rulers are also in force.

16. While laws in Egypt and Jordan have undergone a process of reform making them more progressive as regards the situation of women, the laws enforced in the Palestinian territories have remained unchanged. In addition, while civil courts try civil and criminal cases on the basis of these systems, matters of personal status and family law are judged by Shari'a courts applying Islamic law.

17. The fragmentation of the legal system undermines the rule of law and is detrimental to women as it constitutes an obstacle to their access to justice. It also makes it more difficult for women's rights activists to focus their advocacy activity.

3.3. Legislation on nationality

18. There is currently no Palestinian nationality law. Nationality rights are regulated by the Jordanian and the Egyptian nationality codes, applied respectively in the West Bank and the Gaza Strip. Both codes are discriminatory, as Palestinian women cannot pass their nationality to their spouses or children and, in principle, they lose their nationality if they marry a non-Palestinian.

4. Ministry of Women's Affairs, 2009.

5. Ministry of Women's Affairs, Cross-Sectoral National Gender Strategy Booklet, "Promoting Gender Equality and Equity 2011-2013".

3.4. Family law

19. Family law contains norms and principles which discriminate against women. In order to marry, a woman must have the permission of a male guardian or *wali*. Under both Jordanian and Egyptian law, women have the right to keep their maiden name after marriage and can decide whether to adopt their husband's name or not. However, in practice their names on the Palestinian passport are changed automatically on marriage.

20. A clear discrimination can be found in the regulation of divorce. While a man can divorce unilaterally and verbally (by repeating three times the formula "I divorce you"), women have to use the court system. Differences lie also in the child custody system, as a divorced woman normally retains custody of her children only until they reach the age of ten (for sons) or twelve (daughters). She will also lose her custody rights if she remarries. During marriage, only the father is considered to be the legal guardian of their children.

21. Polygamy is legal in the Palestinian territories in the forms prescribed by Islamic law (a Muslim man can take up to four wives), with the exception of East Jerusalem where it is forbidden by Israeli law. Although less than 4% of men in the West Bank and Gaza had two or more wives in 1997,⁶ the fact remains that polygamy is at variance with human rights.

22. Women are faced with discrimination in inheritance law, as shares are calculated according to detailed rules of Islamic law, applied both to Muslim and Christians. Women's shares are generally smaller than men's. A daughter, for instance, inherits half as much as a son.

23. Reforming family law is one of the key issues in improving the situation of women in the territories. The Cross-Sectoral National Gender Strategy (CSNGS) launched by the Ministry of Women's Affairs, with the support of UN Women, for the period 2011-13, lists as Strategic Objective 1 "To enable women to enjoy family law and civil rights that ensure equality and equity". One of the CSNGS's aims is to take all legal, legislative and operational measures to reinforce the principles of gender equality and equity in personal status and civil rights.

3.5. Labour law

24. This area of law is governed by recent legislation issued by the Palestinian Authority, namely Law No. 7. In 2000, this piece of legislation replaced the 1960 Jordanian Labour Law in the West Bank and the 1964 Egyptian Labour Law in the Gaza Strip. It is a more modern instrument, reflecting standards set out by the Arab Labour Organization (ALO) and International Labour Organization (ILO). Law No. 7 prohibits gender-based discrimination and includes several provisions to protect women workers before and after pregnancy. Amongst them are the right to maternity leave, the right not to be dismissed from work because of pregnancy and the right to flexible working hours for breastfeeding. Women are also entitled to full rights in terms of wages, salaries, pensions and end-of-service compensation.

3.6. The Convention for the Elimination of all forms of Discrimination against Women (CEDAW)

25. On 8 March 2009, the Palestinian National Authority unilaterally ratified the United Nations Convention for the Elimination of all forms of Discrimination against Women (CEDAW). Even though there is no legal obligation for the Palestinian National Authority to provide a periodic report to the CEDAW Committee, the ratification represents an important symbol of the political commitment to implement the provisions of the text.

4. The status of women in society

26. The gender gap in education is closing. In primary education, this has been achieved, and women's secondary and tertiary enrolment exceeds that of men. More girls enrol in vocational education than previously, accounting for 27% of all vocational school students in 2002, compared with 18% in 1997.⁷

27. The illiteracy rate in the territories under the Palestinian National Authority was 9.5% among females and 2.4% among males in 2007. The highest illiteracy rates were found amongst those 45 years old and above (50% of illiterate women and 25% of men).

6. Palestinian Central Bureau of Statistics.

7. World Bank (2006), "West Bank and Gaza Education Sector Analysis: Impressive Achievements under Harsh Conditions and the Way Forward to Consolidate a Quality Education System".

4.1. Women in business and the labour market

28. Although they represent the majority of university students, women in the Palestinian territories are underrepresented in the labour market. The participation rate of the female labour force was only 15.1% in 2009, while the female unemployment rate was 23.8%.⁸

29. The nature of women's work is not easily captured in labour force surveys: many of them work in the informal sector; others are involved in an economic activity which they themselves do not consider as work, including food production and other goods, selling or bartering food coupons, and volunteering with charitable organisations.

30. High unemployment rates among men and the impact of the political and security situation on the economy have led an increasing number of women to become breadwinners for their families. Several associations have also been set up to promote women's entrepreneurship, sometimes also through the granting of loans and financial support.⁹

4.2. Women in public administration

31. In August 2008, female representation amongst judges and lawyers was 13.2% (21 out of 159). In 2009, two more women were appointed, raising the percentage of women to 16%. In 2008, five out of 39 judges in the Gaza Strip were women (12.8%). However, this percentage has since declined. In the West Bank, however, where 18 judges out of 120 were women in 2008 (15%), the percentage has since risen, reaching 16.6% in 2009.

32. In September 2009, there were five women ambassadors out of 106 Palestinian Authority representative officers around the world.¹⁰

5. The role of women in reconciliation and peace building

33. Women have been active in Palestinian society for a long time. At the beginning of the 20th century, they already had a role in the nationalist struggle and contributed to the welfare of their community. In 1920, they established the General Union of Palestinian Women, which supported women in the territories and in the Palestinian diaspora.

34. Women's role in public life gained new momentum in the 1970s, as they got involved in the fight against occupation and became more active in society and the economy, among other things by creating co-operatives. In the 1980s, they also had a part in the first intifada.

35. Peace building and the women's cause are peculiarly intertwined in the Palestinian territories, because women are affected by crises and conflicts disproportionately.

36. In 1992, when several technical teams were formed to support the peace negotiations, the Women's Affairs Technical Committee (WATC) was one of them. At the same time, the WATC was intended to be part of the organisation and infrastructure building of a future Palestinian state, to integrate gender into all preparatory work in support of the peace process, and to build state institutions consistently with the principle of equality among Palestinians regardless of sex, religion or race, as affirmed by the Declaration of Independence.

37. Women are particularly involved in peace building even at non-governmental organisation level, sometimes even across borders between conflicting parties. To mention an excellent example, two women, Naomi Chazan and Sumaya Farhat-Naser, took the initiative of creating a partnership between Palestinian and Israeli women's organisations during the first intifada. This special partnership is called Jerusalem Link.¹¹ The two partner organisations carry out separate initiatives to address the needs of women on each side, as well as joint peace-building projects.

8. Euromed, National Situation Analysis Report, "Women's human rights and gender equality, occupied Palestinian territory", www.euromedgenderequality.org.

9. See, for instance, the Palestinian Businesswomen's Association, www.asala-pal.com/.

10. Ministry of Women's Affairs, 2009. Diplomatic missions are called embassies, missions or delegations depending on the recognition of the Palestinian Authority by the host country.

11. www.batshalom.org/jlink_about.php.

6. Violence against women

38. While Palestinian men are most vulnerable to conflict-related violence, women are exposed to violence from a range of sources including the conflict with Israel, the intra-Palestinian divide and domestic violence.

39. A 2005 survey on domestic violence showed that over 60% of women had been psychologically abused, 23% had experienced physical violence and 11% had been victims of sexual violence.¹²

40. Gender-based and domestic violence goes largely unreported, as victims seeking legal recourse against perpetrators, especially within the family, face social stigma, intimidation and ostracism. Data from the Palestinian Central Bureau of Statistics show that only 1.2% of victims report violence. Being only marginally represented among judges, lawyers and police forces, women are often reluctant to seek justice. In addition, the effectiveness and credibility of law enforcement institutions of the Palestinian Authority is undermined by a weak compliance with the rule of law, a complex legal situation and the highly unstable political situation. This has paved the way for a resurgence of informal justice based on customary laws, which strongly discriminate against women.

41. There is no specific provision on gender-based violence in the penal codes in force in the Territories. A matter of serious concern is the existence of rules that can be considered as justifications of so-called honour crimes, including killings. The law applicable in the West Bank contains provisions reducing the sentence for perpetrators who commit a crime in a “state of great fury”, applicable also to men who kill their female relatives under “suspicious” circumstances. These norms are in contrast with Articles 9 and 10 of the Basic Law.

42. The practice of honour killings is not specific to the Muslim community: of the 18 victims identified by the Independent Commission for Human Rights (ICHR, Palestine’s national human rights institution) in 2007, several were Christian. “We have no law, and no respect for any law. We are not only asking for a change in law and criminal process but change in the entire judicial system”, stated Attorney Halima Abu-Sulb of the Women’s Centre for Legal Aid and Counselling, Ramallah, in 2005.¹³

43. In 2008, the Palestinian Council of Ministries established a National Committee on Combating Violence Against Women, led by the Ministry of Women’s Affairs. The Committee is composed of a wide range of members, including governmental institutions and non-governmental organisations represented by the NGO Forum for combating violence against women (Al Muntada) and the General Union of Palestinian Women (GUPW).

44. On 11 January 2011, the Palestinian government approved a National Strategic Plan to combat violence against women, to be enforced during the period 2011-2019. The plan considers violence against women as a development issue affecting all aspects – social, economic, political – of Palestinian society. The approach, in the words of the plan itself, is “to combat violence against women by promoting the principle of the rule of law based on women’s rights and improving institutional mechanisms in Palestinian society in order to protect and support abused women to live in a society free from all forms of discrimination based on equality, dignity, and respect for human rights”.

45. The National Strategic Plan is designed to be complementary to the CSNGS, whose Strategic Objective 3 is “To reduce all forms of violence against Palestinian women”. The ambitious measures mentioned in the CSNGS include: enacting a law to protect women from domestic violence; amending the Penal Code to remove any form of gender-based discrimination; amending the Penal Procedures Law with regard to provisions on criminal prosecution that discriminate between men and women in filing complaints; and finally, adopting all interventions stated in the National Strategic Plan to combat violence against women.

7. The situation of women in the Gaza Strip

46. Since Hamas took control of the Gaza strip in 2007, the deterioration of the political, socio-economic and security situation in the Gaza Strip has also had a negative impact on the situation of women.

47. Despite the lack of transparency and communication difficulties, women’s rights advocates in Gaza complain that Hamas limits freedom of movement and the free expression of opinions, which directly hampers their work. At the same time, Hamas is implementing measures and reforms which constitute a severe backlash against women’s rights in all areas. In particular, work has started on amendments to the Personal Status Law and the Penal Code, which would deprive women of some basic rights.

12. See footnote 8.

13. Human Rights Watch report (2006), “A Question of Security: Violence against Palestinian Women and Girls”.

48. Rising radicalism in the Gaza strip contributes to increasing violations of women's rights including so-called honour crimes. Female genital mutilations are known to be practised in Gaza, particularly near the Egyptian border, but precise figures are not available.¹⁴ A study published by the Women's Affairs Centre (WAC), a women's rights organisation based in Gaza, found that 88% of the women interviewed claimed to have been denied their inheritance. In addition, around two thirds of them said they had not requested aid to restore their legal rights.¹⁵ The press also reported cases of women being warned against "immodesty", lawyers being forced to wear the veil in court and female students forced to wear the veil in school. Hamas is said to have targeted women's rights activists¹⁶ but later, under pressure from the media and the civil society, it denied its involvement in the incidents.

49. The situation of women in Gaza is also deteriorating due to the specific conditions created by Israel's blockade, which makes it more difficult for people to have access to health services, education, employment and other basic facilities.

8. Conclusions by the rapporteur

50. In the present opinion, I have underlined the numerous challenges which women face in the territories under the Palestinian National Authority. Despite shortcomings in the legislative framework, it is clear to me that the Palestinian authorities are committed to gender equality and to improving the situation of women. I agree, therefore, with the Political Affairs Committee that the Palestinian National Council meets the requirements for being granted the status of partner for democracy.

51. Having said this, I would like to underline that granting the status is not the end but the beginning of a process. The Parliamentary Assembly should stand ready to provide its expertise and advice on legislative changes that would bring the legal framework applicable in the Palestinian Territories fully in line with human rights standards, including in the field of gender equality.

52. Similarly, the Assembly should encourage the Palestinian authorities to make greater efforts to ensure the effective implementation of existing policies and legislation aimed at protecting women and preventing gender-based discrimination, as the gap between law and practice is still too wide.

53. Finally, I would like to express the wish that closer relations between the Assembly and the Palestinian National Authority will help national parliamentarians have a more focused picture of the real situation experienced by people living in the Palestinian Territories and of the many challenges – be they practical, cultural, legal or political – which prevent women from enjoying a normal life and their human rights.

14. See footnote 8.

15. *The Jerusalem Post*, 3 July 2010, www.jpost.com/MiddleEast/Article.aspx?id=170400.

16. Hannah Wright (13 August 2009), "Listen to the Women of Palestine", Guardian.co.uk, www.guardian.co.uk/commentisfree/2009/aug/13/palestinian-women-fatah.