Plural Belonging: The Samaritans' Negotiation of Space in the Occupied Palestinian Territory

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THE SAMARITANS’ NEGOTIATION OF SPACE
IN THE OCCUPIED PALESTINIAN TERRITORY

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I. INTRODUCTION ..............................................................................................................552
II. PALESTINE: THE CHALLENGES OF A PLURALISTIC
LEGAL SYSTEM .............................................................................................................559
   A. LEGAL PLURALISM IN PALESTINE: AN UNPROTECTIVE
      STATE-CITIZEN NEXUS ....................................................................................559
   B. THE INACCESSIBILITY OF THE PALESTINIAN JUSTICE
      SYSTEM AND THE OUTSIZED ROLE OF RELIGIOUS COURTS ...568
III. THE SAMARITANS: A COMMUNITY THRIVING IN
CHAOS ................................................................................................................................571
   A. THE CURIOUS CREATION OF A HYBRID IDENTITY:
      SAMARITAN FAITH AND HISTORY ..................................................................573
   B. SAMARITAN IDENTITY AND PALESTINE: A POLITICS OF
      AMBIGUALITY .................................................................................................578
   C. “GOOD SAMARITANS”: THE PREFERENTIAL TREATMENT
      OF SAMARITANS WITHIN PALESTINIAN INSTITUTIONS ..........588
   D. SAMARITANS AS LEGAL SUBJECTS: THE POSITION OF
      SAMARITANS IN ISRAELI INSTITUTIONS .............................................592
IV. SIX EXAMPLES OF SAMARITAN NAVIGATION OF
LEGAL PLURALISM IN THE OCCUPIED
PALESTINIAN TERRITORIES .......................................................................................596
   A. “IF YOU CANNOT BEAT THEM, JOIN THEM”: SAMARITANS

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I. INTRODUCTION

Created in 1993 in accordance with the Israeli-Palestinian Peace Accords,¹ the Palestinian Authority (PA) has grappled with the administration and maintenance of a vortex of highly fragmented legal and judicial systems. These fractured frameworks are the result of centuries-old colonial and military administrations that have exercised jurisdiction over the occupied Palestinian territory (oPt).² A self-governing entity whose sovereignty has been undermined since its inception, the PA idealizes a democratic modus-operandi for the nation’s future, while actively participating in and benefiting from an overarching network of laws, court systems, and regulatory


frameworks designed to discriminate against and abuse their subjects. Palestinian subjects as a whole struggle to gain access to the majority of their fundamental rights within these interweaving legal and judicial systems. Minority communities and vulnerable populations in particular have been harshly affected by these systems’ shortcomings and castigate the PA for its reluctance to incite meaningful change.³

Although the Samaritans⁴ are by definition a minority group⁵, neither Israel⁶ nor Palestine legally recognizes them as such.⁷ As a


4. According to the Samaritan Registry of Births and Mortality of 2020, administered by Samir Yousef Sarrawi, as of January 2020, Samaritans residing in Nablus counted 395 and in Holon the community is comprised of 429 members. The total number of Samaritans as of January 2020 is 824. Samaritan Local Civil Registry, Interview by Samir Sarawi, in Nablus (2020).


6. The Rabbinical courts in Israel ruled in 1985-86 that Samaritans are Gentiles; therefore, the Rabbinical system and courts do not apply to the Samaritans. Further, Samaritans were never formally recognized as a religious community. For more information See Michael Corinaldi, The Personal Status of the Samaritans in Israel, ISRAELI CTR. FOR ACAD. STUD. 2.85, 2.89 (1996) (discussing how Samaritans were never formally recognized as a religious community).

7. Articles 3 and 5 of The Councils of the Non-Muslim Communities, Law No. 2 of 1938 (The Councils of the Non-Muslim Communities), al-Jaridah al-Rasmiyah, no. 594, 1938 (Palestine), https://www.dls.gov.jo/ar/dlsDocuments/chapter7-Transition-Inheritance-ReligiousCommunities/low7_8.doc with its amendments and the Presidential decree No. 277 of 2008, detail explicitly the officially recognized non-Muslim religious communities in Palestine. قانون رقم (2) لسنة 1938 (قانون يحدد ويوحد القانون في العدد رقم 594 من الجريدة الرسمية الصادر بتاريخ المتعلق بجماعات الطوائف الدينية المشتركة.)
result, Samaritans enjoy a certain amount of autonomy in their navigation of the two legal and judicial systems that official minorities do not. Their advantageous position is further bolstered by their unique ethno-religious identity, which is proximate enough to both Hebrew and Arab culture for the Samaritans to be useful to Israeli and Palestinian political ambitions. These factors have concretely enhanced the Samaritan community in a number of ways, including pathways to Israeli citizenship and its various associated freedoms.

The degree of cultural, civic, and economic autonomy given to the Samaritans, otherwise unheard of for minorities in the oPt and the

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8. The 824 people who comprise the present-day Samaritan community are divided between the city of Nablus in Palestine and Holon in Israel and together make up perhaps the only minority that has leveraged Palestine’s unique legal pluralism to its advantage. Given that much has been written on the cultural, religious, and historical aspects of this community, this paper will explicitly deal with the less than 400 Samaritans living in Nablus on Mount Gerizim Arabic Jabal Al-Ţur, Hebrew Har Gerizim. Samaritan Local Civil Registry, supra note 6, at 2.89.

region more broadly, essentially amounts to a *de facto* form of self-determination.\(^\text{10}\) This is all the more remarkable in the context of Palestine’s unique legal and judicial pluralism, which presents numerous obstacles to even the most relatively advantaged members of society.\(^\text{11}\) Although the Palestinian system is exceptional for a number of reasons that will be explored in the following sections, its pluralistic nature is not in fact distinctive. The coexistence of multiple normative legal and judicial systems in one socio-legal space has been studied and observed in a range of contexts since the early 20\(^{th}\) century.\(^\text{12}\) First coined by the legal sociologist Georges Gurvitch\(^\text{13}\) in 1931,\(^\text{14}\) legal pluralism was believed to be part of the “normative logic of statehood”\(^\text{15}\) in a range of countries. Belgian

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\(^{10}\) While the minority status of the Samaritans is both informed by their religious practice and their ethnic ancestry, I will compare their treatment by the PA and by the Israeli authorities to that of other minorities or vulnerable groups, whatever their identity marker (gender, sexual orientation, ethnicity, or religion). This comparison *largo sensu* aims at shedding light on the contrasting, be they imposed and/or self-created, dynamics existing between State powers and other *othered* small groups in the oPt, in particular given the uniqueness of the Samaritans. Thus, in no way does this comparison imply similarities of lived experiences among these groups.

\(^{11}\) According to Feras Milhem and Jamil Salem, Palestinians perceive the existence of formal legal systems “as a form of domination, control and domination.” Feras Milhem & Jamil Salem, *Building the Rule of Law in Palestine: Rule of Law Without Freedom*, in *INTERNATIONAL LAW AND THE ISRAELI-PALESTINIAN CONFLICT: A RIGHTS-BASED APPROACH TO MIDDLE EAST PEACE* 262 (Susan M. Akram et al. eds., 2010).


\(^{14}\) *Id.* at 352.

legal scholar Jacques Vanderlinden was the first to present legal pluralism in an analytic rather than expository framework. In his influential writings on the topic, Vanderlinden presents legal pluralism not as a mere feature of governance, but as an opportunity for the governed. Within the context of an independent society, pluralism is presented as a liberating feature which allows its members to choose between more than one set of co-existing rules, rather than be governed by one overarching system.

Nevertheless, pluralistic systems also long existed in colonially occupied countries, such as Palestine. In the colonial context, multiple systems became inevitable due to the constant presence of various foreign powers. Historically, subjects under the jurisdiction of colonial administrations always belonged to more than one legal system, depending on the preferences of the occupying power and local rulers. The constitutive elements of this type of pluralistic system, namely decentralized administrations and the precedence of colonial adjudication, cause inherent instability.

The occupied Palestinian territory is arguably a case of “extreme legal pluralism” wherein laws of the Ottoman, British, Jordanian, and Egyptian governates, the Palestinian Authority, various religious sects, International Humanitarian Law (IHL) and International Human Rights Law (IHRL), as well as more than 1,800 Israeli

(discussing early interpretations of legal pluralism).

17. Id. at 2–3.
18. Id. at 12, 14.
22. Id.
military orders, continue an uneasy coexistence. It is within this extreme legal context that the Samaritans’ various advantages will be examined, as a means to shed light on not only the failings of legal pluralism in such ‘neo-colonial’ contexts but also its potential advantages, when used correctly.

Samaritans have used the favorable rulings in Israeli and Palestinian courts as the main avenue to secure their legal and civic rights. After years of navigating various liminal identities prescribed to them by the Israeli and oPt legal systems, the Samaritans filed a case before the Israeli Supreme Court in 1993. Their claim was cast in legal language but ultimately relied on a “supra-legal” logic, that is, the presentation of the Samartians’ Jewish indigeneity as a historical fact. These arguments allowed the Samaritans to secure their claim to Israeli citizenship through the application of the Law of Return. This allowed them to move to Israel as immigrants and granted them benefits which will be discussed in the following sections. The significance of the Samaritans’ victory at the Israeli Supreme Court is broader than these outcomes: it points to the group’s strategic use of its hybrid


28. Id.

29. Id.

30. See infra Part 2 and Part 3.
identity, at the same time “indigenous Palestinians”31 and “proto-Jews,”32 as a means of securing autonomy within the overlapping sites of governance.33

Based on archival court records obtained from the Palestinian Judicial Council, and multiple fieldwork visits in the West Bank between 2016 and 2020, this paper will unpack important legal decisions that have affected the Samaritans. Part Two spells out the historical and contemporary specificities of legal pluralism in the Palestinian context, including the shaping of the modern Palestinian legal system. Part Three examines the cultural, religious, and historical conditions that laid the groundwork for the hybridity of the Palestinian Samaritans’ social, economic, and legal advantages over other Palestinian minorities and highlights their exceptionality in the Israeli context. Without the need for a nationalist framework or the desire to be validated by one side of the conflict, Nablus Samaritans became citizens and legal subjects of both Israel and Palestine despite both sides seeking to appropriate their distinct claims to a contested land. Finally, Part Three argues that the particular case of the Samaritans, existing at the border of Israeli and Palestinian jurisdictions, offers a novel perspective on the political and legal strategies of a minority group to secure rights in the occupied Palestinian territories. As a consequence, the Samaritans have become deeply immersed in multiple intersecting legal structures and


institutions, including the judicial and legal systems of Palestine, Islamic Sharia, Israel, and Jordan.

II. PALESTINE: THE CHALLENGES OF A PLURALISTIC LEGAL SYSTEM

This Part will chart a history of the Palestinian legal system to provide a deeper context of the Samaritans’ place within it. It will make the case that Palestine’s ‘neo-colonial’ pluralism is the byproduct of a disruption between its citizens and their capacity to exercise freedom, and survey the impacts of this disruption. Finally, the section analyzes the pluralistic system’s effects on human rights.

A. LEGAL PLURALISM IN PALESTINE: AN UNPROTECTIVE STATE-CITIZEN NEXUS

In contradistinction with the prevailing norms of social contract theory on the origins of the modern state,34 state institutions in Palestine have never expressed the aspirations, interests, or needs of the people on whom they were imposed.35 Such systems were established by a long list of occupying powers, each looking to safeguard their own respective national interests at the expense of their subjects.36 Insofar as these regulatory frameworks were not intended to benefit or allow the participation of Palestinians, these social contracts were quickly reduced to an imbalanced regime of state sponsored subjugation.37


After centuries of colonial and political domination, the signing of the Oslo Agreements in 1993 created the Palestinian Authority (PA) and its corresponding governmental institutions, which were set to inherent a wealth of fragmented legal and judicial systems operating alongside its new state and civic regulations. As is the case with other localized representatives of occupied or newly independent peoples, the PA remains fractured by attempts to appeal simultaneously to the rhetoric of liberal democracy while using an inherited colonial legal framework to its advantage.

Since its inception in the early 1990s, the PA’s fate as a de facto state has been less realized than its de jure conceptualization.

38. For an overview of the historical evolution of laws and legal systems in Palestine, see Al-wade al-qanuni fi Filastin (The Legal Situation in Palestine), BIRZEIT UNIVERSITY INSTITUTE OF LAW, http://lawcenter.birzeit.edu/lawcenter/ar/homepage/2013-08-31-07-08-03 (providing an overview of the historical evolution of Palestinian laws and legal systems).


40. Since the dissolution of the Palestinian Legislative Council (PLC) first initiated in 2007 and fully authorized by the Supreme Constitutional Court in 2018, the democratic legislative process has been ground to a halt. Asem Khalil & Sanaa Alsarghali, Palestine, in 2019 GLOBAL REVIEW OF CONSTITUTIONAL LAW 259–60 (Richard Albert et al. eds., 2020); Indeed, Palestinian authorities in the West Bank and in Gaza have dramatically contributed to the proliferation of inconsistent and unharmonized laws and judicial systems. Under the rubric of emergency laws, the West Bank-based authority has “selectively” passed hundreds of presidential decrees and laws on an ad-hoc basis and acceded to dozens of international agreements without adopting any domestic laws which would ensure legislative harmony and consistency. Since Palestine became a non-member observer state of the United Nations in 2012, it has ratified and acceded to dozens of international treaties and instruments without any reservations. See Mutaz M. Qafisheh, Legislative Process in Palestine, INT’L JUD. MONITOR 3 (2013) [hereinafter Qafisheh I] (discussing Palestinian legal theory); See also Victor Persson, Palestine’s Ratification of International Treaties: A Back Door to Independence? (2016) (Master thesis, Lund University) (discussing Palestine’s ratification of international treaties); U.N. Treaty Body Database: State of Palestine, supra note 23.

41. Milhem & Salem, supra note 11, at 253–77.

42. While the Declaration of Principles on Interim Self-Government Arrangements (“Oslo Agreement”) was internationally heralded as a historic milestone in ending the Israeli-Palestinian conflict, many leading Palestinian
Indeed, the PA’s transition from a limited body of self-government to a fully-fledged state has been severely hampered by the continued Israeli military occupation of the West Bank, and the end of serious peace talks in 2000. Around that time, in a professed pursuit of “national security,” Israel imposed discriminatory bureaucratic systems on Palestinian Israeli citizens, East Jerusalem residents, and Palestinians within the territories as a means to continue controlling and fragmenting the geopolitical existence of the Palestinian people. This move and others along with it throughout the occupation have given the State of Israel control of all Palestinian territory and allowed for its continued belligerent occupation of the Palestinian territories.

Figures and intellectuals like Edward Said, Rashid Khalidi, and Hanan Ashrawi took a more skeptical perspective, viewing the negotiations as an attempt to appease the international community with no guarantees for a future Palestinian State. See Rashid Khalidi, A Palestinian View of the Accord with Israel, 93 CURRENT HIST. 62, 62–63, 65 (1994) (discussing the Oslo Accords); see also Edward Said, The Morning After, 15 LONDON REV. BOOKS (Oct. 21, 1993) (providing a skeptical view of the Oslo Accords).

43. See occupied Palestinian territory, U.N.O.C.H.A., https://gho.unocha.org/occupied-palestinian-territory (last visited Mar. 20, 2021) (outlining the crisis in the occupied territories); see also Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 2004 I.C.J. 199 ¶ 155 (July 9) [hereinafter I.C.J. Advisory Opinion]. For example, paragraph 55 of the advisory opinion of the International Court of Justice, regarding the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory provides, “The Court would observe that the obligations violated by Israel include certain obligations erga omnes . . . The obligations erga omnes violated by Israel are the obligation to respect the right of the Palestinian people to self-determination, and certain of its obligations under international humanitarian law.”

44. See Camille Mansour, Toward a New Palestinian Negotiation Paradigm, 40 J. PALESTINE STUD. 38, 48 (2011) (discussing the failure of peace talks).


47. See Benjamin Pogrund, Legal Pluralism in the Wild West Bank, 21 PALESTINE-ISR. J. POL., ECON. & CULTURE (2016), https://pij.org/articles/1686/legal-pluralism-in-the-wild-west-bank (discussing...
The occupied Palestinian territories have been territorially and politically fragmented since the Oslo II Accord in 1995, which stipulated three administrative areas (A, B, and C),48 each with a distinct governance and administration status, for the ruling of the West Bank.49 This deliberate land fragmentation has not only ruptured the Palestinian territories’ contiguity,50 but it has also created enormous everyday challenges for Palestinians who have found themselves living in disjointed Bantustans51 with limited access to justice.52 Area A (about 18 percent of the oPt) falls under the administration of the PA, which manages most internal civilian affairs and internal security; Area B (22 percent) is jointly administered by both the PA and Israel; and Area C, which comprises approximately 60 percent of the West Bank territory and contains the Israeli settlements, is under exclusive Israeli administrative and military control (although the PA is required to provide health and human services such as water, electricity, gas, sanitation, and health).53 In addition, Palestinians in East Jerusalem, the H2 Zone in Hebron,54 the Seam Zone,55 Bedouin communities,
and refugee camps are constantly challenged by the discriminatory entangled web of laws, military orders, policies, and practices that limit their legal space and hinder their access to rights.\textsuperscript{56}

The deterioration of living conditions after the Oslo Accords was accompanied by a decline in the state of human rights in the West Bank.\textsuperscript{57} The Israeli army and civil administration have shown a deliberate indifference towards the rule of law in the West Bank, and the limited ability of the PA to enforce law has contributed to a state of legal chaos.\textsuperscript{58} Scholars,\textsuperscript{59} nongovernmental organizations (NGOs),\textsuperscript{60} international nongovernmental organizations (INGOs),\textsuperscript{61} and Palestinian occupied lands trapped between Israel’s Separation Wall and the Green Line demarcating Israel’s border. Considered a de-facto annexation, the area is a military zone where Palestinians are denied access. \textit{The Separation Barrier and the Seam Zone}, MACHSOMWATCH, https://machsomwatch.org/en/content/separation-barrier-and-seam-zone.


\textsuperscript{60} See the NGOs Al Haq and Al Dameer in the West Bank, and Al Mizan and The Palestinian Center for Human Rights (PCHR) in the Gaza Strip.

the international community, and even the International Court of Justice (ICJ)\textsuperscript{62} have repeatedly raised concerns about the inapplicability of multiple regulatory frameworks for governance in Areas B and C\textsuperscript{63} to no avail.\textsuperscript{64} This persistent and encroaching fragmentation does not, as a phenomenon, only unfold at the territorial level; it has also deeply affected the very state-citizen nexus that is at the root of state sovereignty and its exercise.\textsuperscript{65} For example, citizenship status remains extremely complicated for the majority of the Palestinians residing in Palestine and in the diaspora.\textsuperscript{66} Although the PA secured residency rights and limited mobility for Palestinians, no actual right to full-fledged citizenship exists, nor does any unified legislation to regulate said matter exist.\textsuperscript{67} Palestinian residents\textsuperscript{68} in the West Bank and the Gaza Strip instead

\begin{itemize}
  \item [\textsuperscript{62}] I.C.J. Advisory Opinion, \textit{supra} note 43, at 199 ¶ 155.
  \item [\textsuperscript{63}] Israeli-Palestinian Interim Agreement, \textit{supra} note 48, at annex III.
  \item [\textsuperscript{64}] \textit{See} EHUD TAGARI \& YUDITH OPPENHEIMER, \textit{DISPLACED IN THEIR OWN CITY: THE IMPACT OF ISRAELI POLICY IN EAST JERUSALEM ON THE PALESTINIAN NEIGHBORHOODS OF THE CITY BEYOND THE SEPARATION BARRIER} 38–42 (2015) (discussing Israeli policy in the West Bank).
  \item [\textsuperscript{65}] \textit{See} RENÉ GROTHENHUIS, \textit{NATION-BUILDING AS NECESSARY EFFORT IN FRAGILE STATES} 60 (2016) (discussing citizenship in Palestine).
  \item [\textsuperscript{66}] As of today, almost half of all Palestinians are refugees (about 5.6 million Palestinians are registered as refugees by UNRWA as of 2019) and approximately 12.37 million Palestinians live around the world. Furthermore, around 21 percent of Palestinians live within the borders of Israel, but as second-class citizens. \textit{Palestinians in the Diaspora}, \textit{PALESTINIAN CENT. BUREAU STAT.}, https://pcbs.gov.ps/Portals/_Rainbow/Documents/Refugees-in-Camps-diaspora-E-2017.html (last visited Mar. 20, 2022); \textit{See Israel Population 2021}, \textit{WORLD POPULATION REV.}, http://worldpopulationreview.com/countries/564israel-population (last visited May 21, 2021) (discussing Israel’s population).
  \item [\textsuperscript{67}] To this day, several laws and regulations are applied differently in the West Bank and the Gaza Strip. The PA did not harmonize all pieces of legislation in the West Bank and Gaza. It also failed to update or reform all applicable laws to correspond to the needs of Palestinian society. For example, the prevailing criminal law in the West Bank is the Jordanian Penal Law, which is different in content from the applicable law in Gaza, which is the British Mandate Criminal Code Ordinance, No. 74 of 1936. Mutaz M. Qafisheh, \textit{Who Has the Right to Become a Palestinian Citizen?: An International Law Analysis}, 18 \textit{YEARBOOK ISLAMIC \& MIDDLE EASTERN L.} 112, 112–15 (June 2017) [hereinafter Qafisheh II].
  \item [\textsuperscript{68}] Agreement on the Gaza Strip and Jericho Area, Annex II, Protocol Concerning Civil Affairs, Isr.-Palestine, U.N. A/49/180, at 83–84 (May 4, 1994) [hereinafter Civil Affairs Protocol].
\end{itemize}
possess a travel document\textsuperscript{69} for purposes of international travel as well as an identification card (ID) [\textit{bitaqat hawiyyah Falastinia}], both of which are issued by the PA.\textsuperscript{70} In addition to the Palestinian-issued IDs,\textsuperscript{71} the Israeli Civil Administration forces Palestinians to obtain biometric “smart” magnetic identification cards that ensure the close surveillance of all Palestinians residing in “Judea and Samaria” as well as the Gaza Strip.\textsuperscript{72} Holders of these documents do not have the right to independently exit their territory until approved by the Shin Bet, the Israeli intelligence agency, and the Israeli Civil Administration.\textsuperscript{73} Upon approval, they must exit as a group “through the passages”\textsuperscript{74} or through specific, variously placed Israeli points of exit.\textsuperscript{75}

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{69} Id. ¶ 27(f), (m) (“Population Registry and Documentation” sub-paragraph (f): “Exit abroad through the passages or through Israeli points of exit by residents of the Gaza Strip and the Jericho Area shall only be possible by means of an agreed passport/travel document.”; sub-paragraph (m): “The format of the aforementioned identity card and passport/travel document as well as arrangements of the implementation of the provisions set forth in this Article are detailed in Appendix C attached to this Annex.”). Appendix C is dedicated to arranging the Schedule Regarding Population Registry and Documentation, including format, text and size of pages.
\item \textsuperscript{70} Palestinians living in the West Bank hold Palestinian ID cards and therefore have the right to reside in the West Bank in accordance with the Oslo Peace Accords. Yet, Palestinians living in Jerusalem since 1967 hold Israeli identification cards permitting them to reside in Jerusalem. Accordingly, legal status of Palestinians varies depending on their residential status. Due to this division, laws differ from one area to another. For more information, see Qafisheh II, supra note 67, at 112–15; Helga Tawil-Souri, \textit{Colored Identity: The Politics and Materiality of ID Cards in Palestine/Israel}, 29 SOC. TEXT 67, 72–73 (2011).
\item \textsuperscript{71} Id.
\item \textsuperscript{72} See Amira Hass, \textit{The Yearnings for a Magnetic Card}, HAARETZ 123, 127–28 (May 9, 2007), https://www.haaretz.com/1.4819750 (discussing the use of magnetic cards in Israel).
\item \textsuperscript{74} According to Annex III of the Oslo Agreement, Israel stipulated passage routes and military checkpoints for Palestinians traveling within the West Bank or between the West Bank and Gaza Strip. Alexandra Rijke & Claudio Minca, \textit{Inside Checkpoint 300: Checkpoint Regimes as Spatial Political Technologies in the Occupied Palestinian Territories}, 51 ANTIPODE 966, 970 (Mar. 2019), https://doi.org/10.1111/anti.12526.
\item \textsuperscript{75} \textit{Israeli-Palestinian Interim Agreement}, supra note 48, at annex III, art.
\end{itemize}
\end{footnotesize}
The fragile nature of the state-citizen nexus in Palestine has been its central characteristic for the past seventy years. Despite its fragility, there have been concerted efforts to institute national Palestinian institutions, beginning with the codification of the Palestinian National Charter of 1964, which reflected the aspirations of Pan-Arab nationalism to treat equally all those who had been living in Palestine since 1947, including Muslims, Christians, and Jews of Palestinian descent. According to the Charter, such minorities were considered Palestinian Arabs whose identity granted them rights to self-determination and self-defense. This vision of an empowered Palestinian co-existence was further codified by the seminal 1988 Declaration of Independence, which announced Palestine as “the land of the three monotheistic faiths,” while reasserting the diverse richness of Palestinian culture and religious heritage through the “temple, church and mosque.” These documents defined the body politic for a group of people displaced by the creation of the Jewish state of Israel and enabled

28(7); HOME OFFICE, supra note 73, at 10–18.
76. NAAMNEH ET AL., supra note 57, at 5.
78. The Palestinian National Charter: Resolutions of the Palestine National Council July 1-17, 1968, AVALON PROJECT, https://avalon.law.yale.edu/20th_century/plocov.asp (last visited Apr. 4, 2022) (“Article 6: The Palestinians are those Arab citizens who were living normally in Palestine up to 1947, whether they remained or were expelled. Every child who was born to a Palestinian parent after this date whether in Palestine or outside is a Palestinian; Article 7: Jews of Palestinian origin are considered Palestinians if they are willing to live peacefully and loyally in Palestine.”).
79. The Original Palestine National Charter, supra note 77; The Palestinian National Charter, supra note 78.
81. The Palestinian National Charter of 1964 with its amendments and the 1988 Declaration of Independence are principal legislations that enjoy the same constitutional power as the Basic Law.
82. Palestinian Declaration of Independence, supra note 80, at preamble.
83. Id. at preamble, ¶ 3.
them to come together as Palestinians regardless of differentiating characteristics, such as religion or ethnicity.

The creation of the PA was meant to embody this spirit of acceptance and represented to many the codification of the long theorized Palestinian identity in government and the crystallization of its values in their institutions. Nonetheless, the legacy of colonialism and the novelty of this national movement for autonomy left the authority fatally challenged. Instead of being given effective sovereignty over citizenship, territory, borders, or natural resources, international agreements limited it to governmental jurisdiction with certain civil administration and policing powers and responsibilities. Meanwhile critical systems like border control, natural resources, security, and population registry remained under Israeli control. The following section will explore the results of this ‘neo-colonial’ system in the hands of an overwhelmed and frequently corrupt government by looking at responses at the local level. The rise of religious courts is a particularly powerful phenomenon which was designed to fill the gaps of an inaccessible justice system, but ultimately, they repeat their failures with regard to human rights and minority protections.


85. See Edward Said, The End of Oslo, NATION (Oct. 12, 2000), https://www.thenation.com/article/end-oslo/ ("Oslo was designed to segregate the Palestinians in noncontiguous, economically unviable enclaves, surrounded by Israeli-controlled borders, with settlements and settlement roads punctuating and essentially violating the territories’ integrity.").


88. NAAMNEH ET AL., supra note 57, at 5.
B. THE INACCESSIBILITY OF THE PALESTINIAN JUSTICE SYSTEM 
AND THE OUTSZED ROLE OF RELIGIOUS COURTS

Palestinians must contend with the extremely entangled web of 
rights arising out of civil and religious law, as well as their respective 
individual court systems, as a result of what has been described as a 
neo-colonial pluralistic system. Countless reports, studies, and 
scholarly works have been issued by researchers, institutions, local 
Non-Governmental Organizations (NGOs), and International Non-
Governmental Organizations (INGOs), to address the adverse impact 
of this kind of legal pluralism on the everyday lives of Palestinians. 89 
These studies pay particular attention to minority groups to highlight 
the various ways the system denies the realization of internationally 
recognized basic rights for minority groups. 90 This subsection will 
look at the impact of these failures in the Palestinian case by 
examining the rise of local justice in religious courts, and in 
particular, within the realm of family and personal status. 91 

Religious courts are responsible for governing personal status and 
family affairs of recognized ethno-religious groups. 92 Palestinian and 
Israeli military laws are also in effect—each with its own court 
system—in addition to customary law, known as tribal or “informal” 
justice systems. 93 As a result of such disjointed regimes and their 

89. See, e.g., Joint Parallel Report submitted by Al-Haq to the U.N. Committee 
on the Elimination of All Forms of Racial Discrimination (CERD) on the Occasion 
of the Consideration of Israel’s 14th, 15th and 16th Periodic Reports on the 
implementation of the International Convention on the Elimination of All Forms of 
Racial Discrimination, 80th sess., 13 February – 9 March, 2012 ¶¶ 3, 5, 10 (Jan. 30, 
Human Rights on the Implementation of Human Rights Council Resolution 6/19, 
Human Rights Situation in Palestine and other Occupied Arab Territories, Office 
of the United Nations High Commissioner for Human Rights (O.H.C.H.R.), at 12 
91. See Candace Graff, Pockets of Lawlessness in the “Oasis of Justice”, 58 
92. Samer Fares, Feras Milhem & Dima Khalidi, The Sulha System in 
Palestine: Between Justice and Social Order, 28 PRAC’G ANTHROPOLOGY 21, 21 
93. See Asem Khalil, Formal and Informal Justice in Palestine: Dealing with
overlapping bureaucratic procedures and requirements, the pluralism of the Palestinian legal system serves not as an advantage but as a barrier for accessing and negotiating civil and social rights.94 This type of proto-colonial pluralism also fosters various levels of civic lawlessness, as in the case of the Qufr Aqab neighborhood (a part of Area C)95 or the city of Al Ram (divided between Area A and B), which will be revisited in the third Part.

Each recognized religious community maintains exclusive jurisdiction over the personal affairs of its members and retains the right to adjudicate family matters including marriage, divorce, custody, and alimony.96 This system also allows religious communities to maintain their own family courts and laws, staff their own judges, regulate the ability to practice law before their religious courts, and apply their own religious and customary laws.97 The maintenance of this complex system by minorities attempting to counteract the disempowering effects of pluralism significantly enhanced the role of the Islamic family courts and strengthened its institutionalization to the extent that the Sharia system became a parallel means to state-run civil jurisdiction.98 As a result, the Sharia

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95. Graff, supra note 91, at 18.


98. Id. Today, the Sharia judicial system comprises a distinct state-staffed Supreme Sharia Judicial Council, in addition to Sharia prosecution and Sharia Judicial Police, which operates fully independent from the civil Supreme Judicial
courts are allowed to lawfully discriminate and criminalize “non-officially” recognized religious minorities, like the Ahmadiyya Muslim Jama’at community,\textsuperscript{99} and otherwise overrule the secular judiciary and legislative process with their own prerogatives, like in the case of the failed implementation of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) after its ratification without reservations by the PA.\textsuperscript{100}

More broadly, the outsized influence of these courts testifies to the harmful effects of the polycentric legal and judicial regulatory framework maintained by the PA. Instead of modernizing laws to adhere to fundamental IHRL standards of equality before the law,\textsuperscript{101} and in stark contradiction to the international legal instruments it has ratified,\textsuperscript{102} the PA retains laws allowing religious court systems to...

\textsuperscript{99} Palestinian Court Declares Ahmadiyya Marriage Invalid, RABWAH TIMES (July 1, 2016, 6:16 AM), https://www.rabwah.net/palestinian-court-declares-ahmadiyya-marriage-invalid/ (describing how a Palestinian Shariah court declared Ahmadiyya marriage invalid); Other «non-officially» recognized minorities such as millenarian Christian denomination Jehovah’s Witnesses or the Bahai’, are victims of such practices. 2019 REPORT ON INTERNATIONAL RELIGIOUS FREEDOM, supra note 3, at 3, 5, 23.


\textsuperscript{102} The Presidential Decree No. (19) of 2009 Concerning the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women
regulate personal status affairs, inherited from previous eras resembling the “millet system.” Through its preservation of religious courts, the PA enforces and perpetuates a politics of selective tolerance rather than abiding by its rhetorical commitment to democratic governance.

The outsized role of religious courts not only weakens the rule of law in Palestine through the enabling of exclusionary practices in matters of personal status law, but it also sheds light on how religion as an identity marker defines de jure and de facto minorities and their capacity to navigate the complex web of legal systems overseen by the Palestinian State. This will prove important when understanding where the Samaritans, as a “successful” minority in Palestine, truly stand.

III. THE SAMARITANS: A COMMUNITY THRIVING IN CHAOS

With the weakened juridical system and prominence of religious courts serving as context, this Part will delve into the Samaritans’ history, identity, and relations with Palestine and Israel that work to their advantage in the oPt’s pluralistic system. The mapping of Samaritan advantages will highlight potential avenues for reform, so that the Palestinian legal system can be re-configured to become more beneficial for a larger number of minority communities.

Although the Samaritan community is characterized by a rigid and deeply religious identity, their political and cultural identities are more fluid. For example, they reject being identified as Jewish but embrace the label of being part of a wider Israelite community in return for Israeli citizenship. Moreover, while Samaritans mostly

demonstrates the unilateral expression of interest of the Palestinian Authority to adhere to the CEDAW. CEDAW was ratified in 2014 without reservations. The initial national report to CEDAW was due on 2 May 2015. UNDP, supra note 100, at 8.

103. INSTITUTE OF L. BIRZEIT UNIV., supra note 97.
104. SCHREIBER, supra note 9, at 38.
vote in the Israeli general elections for the far right political party, they repeatedly state what appears to be genuine respect for and belief in the Palestinian Authority. Some Samaritans even enlist in the Israeli army, while yet others have reportedly launched attacks against the military. These seemingly contradictory religious and socio-political positions work, when combined and maneuvered effectively, to enable a minuscule minority to play off their polarized representations in a way that empowers their legal and political status.

The Samaritans’ minority status and their accommodation to heterogeneous cultural and political forces appear to be the only factors that differentiate their attempts at autonomy from those of other minorities. These features of Samaritan identity will therefore be examined in more detail with the aim of shedding light on the importance of their hybridized cultural identity and on how Samaritans have used the oPt’s legal pluralism for their advantage. The present Part will do so in three subsections: the first will recount a brief history of the Samaritans’ hybrid identity, while the second and third will focus on the ways in which the group used this identity to their gain in Palestine and in Israel.

Palestine); see also Ishaq Al Samiri, Al-Samyron fi Shekheim, Nablus wa Jabal Gerizem [Samaritans in Shechem, Nablus and Mount Gerizim], 2 PALESTINIAN HIST. REPOSITORY 484, 484–87 (2012) (discussing Samaritans in the West Bank).

106. See Interview with Benyamin Tsadaka, Samaritan Historian, Editor of A.B. Newspaper, Historian and Author, in Nablus (Aug. 20, 2019) (discussing Samaritan votes in Israeli elections); see also SCHREIBER, supra note 9, at 74–77; AYYASH, supra note 32, at 122–23.


108. See Benjamin Tsedaka, ISRAELITE SAMARITAN INFO. INST., https://www.israelite-samaritans.com/benyamim- tsedaka/ (the head of the Israelite Samaritan information centre); see also, HILLEL NEUER & DINA ROVNER, ALTERNATIVE REPORT OF UNITED NATIONS WATCH TO THE 99th SESSION OF THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION FOR IT REVIEW OF STATE OF PALESTINE 23 (July 12, 2019) (reviewing a report by a UN Committee).

A. THE CURIOUS CREATION OF A HYBRID IDENTITY: SAMARITAN FAITH AND HISTORY

The Samaritans’ identity is in various ways Israeli-Jewish and Arab-Palestinian due to its similarity to critical features of both communities. The religious practices and beliefs of Samaritanism form the core of this mixed cultural identity. While demographically nominal and plagued by fears of extinction since late antiquity, the Samaritans have had an outsized influence on the development of both rabbinical Judaism and early Christianity. Samaritan creed places the group as the last and only true ancient Israelites in existence, in possession of a history which evidences their traceable lineage from three of the twelve Israelite tribes: Menasseh, Ephraim, and Levi. Accordingly, their name is believed to be derived from the word Shamarim, which means the “keepers of the truth,” though today members of the community prefer to use the Aramaic term “Shomronim.”

The relationship between Samaritanism and Judaism has for more


111. SCHREIBER, supra note 9, at 9.


115. See Michael Corinaldi, Samaritan Halakhah, in AN INTRODUCTION TO THE HISTORY AND SOURCES OF JEWISH LAW 57 (N. S. Hecht et al. eds., 1996) (emphasizing that Samaritans use “Shomronim” to indicate their role “as the authentic guardians of the Scripture and of the original tradition of the Jewish people”).
than 1,500 years ranged from ambivalent to hostile.\textsuperscript{116} With the closing of the Talmud in the 6\textsuperscript{th} century CE, Samaritans were regarded as Gentiles, and laws on marriage prohibitions and conversion were applied to them.\textsuperscript{117} The \textit{Halakah} contends that Samaritans are not indigenous to Samaria\textsuperscript{118} and have no \textit{a priori} connection with the Israelites, the Tribes of Israel, and thus by extension, Judaism.\textsuperscript{119} Rather, it sees them as an amalgamation of different peoples who were brought by the Assyrians after their conquest of the region in the 8\textsuperscript{th} century BCE.\textsuperscript{120} Accordingly, the current position of the religious Jewry perceives Samaritans as Gentiles,\textsuperscript{121} at most a mixture of Israelite people with non-Israelite.\textsuperscript{122} Samaritans vigorously reject this interpretation, insisting they have remained continuously in Palestine since the Exodus from Egypt.\textsuperscript{123}

The particular hostility evidenced in more contemporary dealings between the two Abrahamic faiths is a relatively more recent

\textsuperscript{116} See generally Jamieson, supra note 114, at 142–43 (chronicling animosities between the Samaritans and the Judaeans over the rebuilding of Jerusalem).

\textsuperscript{117} See id. at 142–43 (outlining the history of the Samaritans’ exile, repression, and impoverishment).

\textsuperscript{118} “The Old Testament has many references to Samaria, but only one to the Samaritans. 2 Kings 17 records the fall of the northern kingdom of Israel to the king of Assyria . . . Are the Samaritans of the New Testament the descendants of the Israelite survivors of the Assyrian invasion of 722 B.C. and the people who were imported from other lands?” See Stephen Voorwinde, \textit{Do Jews Have Dealings with Samaritans?}, Vox Reformata 25, 27–29 (2011) (weighing the relevance of the Old Testament’s account of the Samaritans’ historical origin).

\textsuperscript{119} See id. (discussing the 2 Kings 17 narrative that the Samaritans were “imported peoples from the Mesopotamia and Aram”).

\textsuperscript{120} See Jamieson, supra note 114, at 142 (describing an “admixture” Israelite and non-Israelite communities).

\textsuperscript{121} In 1985-1986, the Israeli Chief Rabbanite and Rabbanical Courts issued a decision ruling that Samaritans are to be treated as Gentiles. The full text of the court decision was published in Torah She-Be’al-Peh 29 (1988) 59–67 (in Hebrew). For more information, see Corinaldi, supra note 6, at 2.87 (summarizing a case involving Samaritan sisters that held they must convert to marry Jews).


\textsuperscript{123} There is a general consensus among researchers about the Semitic origin of the Samaritan people, but their exact origin remains unclear. For more information, see generally Feldman, supra note 112, at 23–26 (analyzing Josephus’ ambiguous account of the Samaritans).
phenomenon, manifesting in frequent expressions of displeasure by Jewish religious authorities on the status of Samaritanism, the intermarriages of Jews and Samaritans, and the general establishment of Samaritan settlements outside Nablus.\textsuperscript{124} Despite the promulgation of this hostile stance, a revival of the dwindling Samaritan community began in the late 19\textsuperscript{th} century.\textsuperscript{125} With the growing influence of secular Zionism after the establishment of the state of Israel in the early 20\textsuperscript{th} century, Jewish attitudes toward the Samaritans changed notably.\textsuperscript{126} Much like current Israeli politicians, secular Ashkenazi Jews of the time used Samaritan indigeneity as a way to link and authenticate a connection between Jewish identity and the land of Palestine.\textsuperscript{127} To this day it is clear that secular Zionist settlers played a major role in revitalizing the endangered minority, enabling its survival and improving its socioeconomic status.\textsuperscript{128}

Perhaps the most prominent Zionist to come into contact with the

\textsuperscript{124} E.g., DROEBER, supra note 32, at 129–35 (discussing communities’ use of endogamy rules and marital traditions to set “borderlines” for themselves).

\textsuperscript{125} The Crisis of 1841 revealed new ambivalence from Jewish authorities, and an understanding of the ways Samaritans negotiate their space, despite respective theological and ideological differences. \textit{C.f.} REINHARD PUMMER, \textsc{The Samaritans: A Profile} 163 (2016) (observing over the last two hundred years a scholarly trend of harmonizing characteristics of the Samaritan Pentateuch with the Masoretic Text); \textit{See generally} JIM RIDOLFO, \textsc{Digital Samaritans: Rhetorical Delivery and Engagement in the Digital Humanities} 20 (2015) (expressing the Samaritans’ transformation as an “almost extinct community” in 1920 to a population whose numbers “continue to rise due to a combination of better health, economic, and social circumstances”); Judith Fein, \textit{The Last of the Good Samaritans}, BBC TRAVEL (Aug. 29, 2018), https://www.bbc.com/travel/article/20180828-the-last-of-the-good-samaritans (citing a Samaritan historian’s reflection that, throughout history, empires and civilizations drove the Samaritans to near extinction).

\textsuperscript{126} \textit{See generally} SCHREIBER, supra note 9, at 52 (explaining that Samaritans in the British Mandate found a “special interest in aligning themselves with” Zionists, who treated Samaritans “as equals in the Zionist nation-building project”).

\textsuperscript{127} \textit{C.f.} Schreiber, \textit{The Samaritans}, supra note 113, at 229 (stating that the Samaritan community invokes its biblical history to lay “claim to a common Israelite identity”).

\textsuperscript{128} \textit{See, e.g.}, Fanny Urien-Lefranc, \textit{From Religious to Cultural and Back Again: Tourism Development, Heritage Revitalization, and Religious Transnationalizations among the Samaritans}, 11 \textsc{Religions} 86, 97 (2020) (discussing the “heritagization” of Samaritan religious traditions as part of the revitalization of the community).
Samaritans was Yitzak Ben-Zvi, the second and longest-serving President of Israel (1952–1963). Zvi’s efforts to include the Samaritans under the 1950 Law of Return helped to construct their legal identity in the newly established State of Israel and represented a turning point in their status as hybridized legal subjects.

According to this law, Palestinian Samaritan residents in Nablus who wished to settle in Israel were granted the Right of Return to Israel as Olim Jews arriving from Arab countries. They were also granted full-fledged civil status as Jewish immigrants arriving from Arab countries. This was the first time that the state of Israel included a non-Jewish ethnic minority in the rubric of the Law of Return without requiring them to convert to Judaism to immigrate to the state. The applicability of the Law of Return to the Samaritans,

129. With the Samaritans, Ben-Zvi saw an opportunity to provide evidence of ancient Israelite settlement and hence serve the interest of the Zionist movement in authenticating and advancing their claims of Jews’ and Samaritans’ shared history, destiny, and faith as the Children of Israel in the Land of Israel. In his 1935 Book of the Samaritans (Sefer ha-Shomronim), Ben-Zvi deconstructed traditional rabbinical arguments on the relationship between Judaism and Samaritanism and argued for their place in the New Yishuv of the British Mandate. ITZHAK BEN-ZVI & SHEMARYAHU TALMON, THE BOOK OF THE SAMARITANS (SEFER HA-SHOMRONIM) (1970) (Isr.).

130. Despite the lack of Samaritan participation in Zionist organizations and the Israeli military at this time, they left Nablus in search of better socio-economic and civil rights and political stability. In 1951, a Samaritan community was established in Holon, south of Tel Aviv; as of January 2020, it had a population of 429 (According to the Internal Registry of Birth and Mortality of the Samaritan Community, administered by Samir Yousef Sarawi, Nablus, 2020.).

131. According to the Israeli Law of Return of Law No. 5710-1950 on the right of “al’ia,” every Jew has the right to come to this country as an “Oleh.” “Oleh” (plural “Olim”) means a Jewish immigrant to Israel. For more information, see Corinaldi, supra note 6, at 2.90 (showing that Samaritans who were living in the Nablus upon the State of Israel’s founding could return to Israel as “olim,” or Jewish immigrants).

132. In 1949, several Samaritan families claimed their right of return as Olim, Jewish immigrants from the city of Nablus to the newly created state of Israel. According to the Population Registry of Israel, Samaritans who were granted the right of return from Nablus to Israel were the first and the only Jordanian Jews ever registered in the national registries. See SCHREIBER, supra note 9, at 58 (describing how Jordan was considered the legal diaspora country of “olim”).

133. See id. (explaining that the 1949 decision for “olim” granted them the “civil status of Jews without first converting to Judaism”).

134. Id.
however, was never made explicit in any written documents. This is because the State of Israel never issued a legally binding law defining the civil and religious status of the Samaritans; it only issued declarations and statements permitting Samaritans to be considered as Olim depending on the political and religious agenda of those in the Zionist political institutions.

The two most prominent contradictions in this application of the Law of Return are that the Samaritans never emigrated from another territory, and that Samaritans do not consider themselves Jewish. Being proto-Jewish does not mean, for the Samaritans, being Jews, and the group has insisted on preserving their distinct religious identity by being referred to solely as the Samaritans or the “true” Israelites. Their commitment to keeping an independent sense of identity is also reflected in the Samaritans’ lived reality: they rarely mix with Muslims, Christians, and Jews, and traditionally uphold a strict prohibition on intermarriage. Samaritans in Nablus speak Arabic as their first language, use Aramaic and ancient Hebrew with its Samaritan variations in religious services, and use modern

135. See id. at 57–58 (underscoring how the Law of Return is rooted in a “parliamentary interpellation” as opposed to a written document).
136. See id. at 57–58 (discussing Ben-Zvi’s assertion of “Samaritans [as] authentic Hebrews”); see also Corinaldi, supra note 6, at 2.91 (citing the unpublished court decision granting Samaritans from Shechem the right to an “oleh” visa under the Law of Return).
137. They reject being labeled as Jews or Palestinian Jews by the authority of the Orthodox Rabbinate: they claim to be the descendants of the original people who never left the Land of Israel. See Schreiber, The Samaritans, supra note 113, at 225 (noting that Samaritans “have a biblical religion that stands in the Israelite tradition”). They further differentiate themselves from Jewish tradition by pointing to the “6,000 differences” between their Torah and the Hebrew Torah. See Chavie Lieber, The Other Torah, TABLET MAG. (May 14, 2013), https://www.tabletmag.com/sections/belief/articles/the-other-torah (explaining how the Samaritan religion is rooted in an ancient origin with ancient rituals).
138. See Schreiber, The Samaritans, supra note 113, at 229 (highlighting that “by definition,” a Samaritan is a descendant of a tribe of Israel).
139. But see Schreiber, supra note 9, at 53 (demonstrating Ben-Zvi’s insistence on his Samaritan friends to marry Jewish girls in the 1950’s “in the interest of demographic recovery”).
140. See ANDREW DALBY, DICTIONARY OF LANGUAGE: THE DEFINITIVE REFERENCE TO MORE THAN 400 LANGUAGES 32 (2006) (noting that Samaritans continued using Samaritan Aramaic in religious texts until the 1800’s).
Hebrew for their interactions with Israeli society. For all intents and purposes, Samaritans in Nablus share social values, language, education, and aspects of history with their Palestinian community in a way that renders them all but indistinguishable from Arabs. Even Samaritans in Holon, who speak Hebrew as their first language and have assimilated in various ways into Israeli society, retain an inseparable bond with the center of their religious life and community in Nablus. These ties have allowed members of the Samaritan community across Palestine to integrate aspects of Arabic cultural and social heritage into their identity.

**B. SAMARITAN IDENTITY AND PALESTINE: A POLITICS OF AMBIVALENCE**

Samaritans attempt to demonstrate a political ambivalence similar to their cultural ambiguity, though not always with the same degree of success. Throughout the recent history of the region, Nablus Samaritans have claimed to be apolitical and neutral with regard to Israeli and Palestinian nationalisms. According to Cohen Hosny Wassef, the director of the Samaritan Museum and the author of the *Israelite Exodus in Sinai Peninsula*, the Shomronim are a bridge for peace between Palestinians and Israelis:

We take no part to the conflict. We were known by the tale of the Good Samaritans, and we always want to retain that reputation. This is aptly

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141. Samaritans have a special newspaper called Aleph Beit, or A.B. A.B. was created in 1969 by Benyamin and Yefet Tsedaka, the grandchildren of the founder of the Holon community, Yefet Tsadaka. It is published in English, Arabic and in Hebrew. It has been a strong voice for the community and a means of communication and connection between both Samaritan communities in the West Bank and Holon.

142. See Schreiber, *supra* note 9, at 77 (asserting that Nablus Samaritans are “clearly an Arab society”).

143. See, e.g., id. at 5 (demonstrating the frequent encounters Samaritans have between Holon and Nablus).

144. See Schreiber, *The Samaritans*, *supra* note 113, at 225 (contrasting Nablus Samaritans and Holon Samaritans regarding the preservation of Arab culture versus the closeness to modern Israeli culture).

145. See Overmeyer, *supra* note 110 (describing the Samaritans’ neutrality).


147. Interview with Cohen Hosny Wassef Assamri, Founder of Samaritan
demonstrated by our participation and employment in both the Israeli civil administration in the West Bank and the Palestinian Authority.\textsuperscript{148}

The Palestinian perspective on Samaritan-Arab identity and their political capital are mixed. While some Palestinians regard Samaritans as Palestinian Jews,\textsuperscript{149} others think of them simply as Palestinian Arabs with a minority religion.\textsuperscript{150} Palestinians in the public and private eye have admittedly questioned the Samaritan allegiance to the nationalist cause, motivated by concerns about their seemingly inherent ties to Israel.\textsuperscript{151} The ancient connection between

Museum, Author of The Israeli Exodus in the Sinai Peninsula, and Member of Palestinian Interfaith Council, in Nablus (Sept. 15, 2019) [hereinafter Interview with Assamri] (maintaining further that Samaritans seek to “serve as a bridge for peace” between Israelis and Palestinians).

148. “A number of Samaritans in Nablus serve as civil servants in the Palestinian Authority, namely in the education and local governance sectors. In the Israeli system, thanks to their bilingual fluency in Arabic and Hebrew, Samaritans serve in the Israeli civil administration.” Interview with Cohen Aziz, Former Bank Manager, Bank Hapoalim in Israel, Deputy Head, Palestinian Monetary Fund, in Nablus (Aug. 6, 2019) [hereinafter Aziz Interview] (pointing to the “expensive and demanding” work for younger Samaritans in Palestine); see also Schreiber, supra note 9, at 72–73 (observing that Israeli citizenship opens economic opportunities for Samaritans).

149. See, e.g., Welfare Ass’n, Nablus: Enduring Heritage and Continuing Civilisation: The Revitalization Plan of the Old City 31, 38 (2011), https://www.spass.org/SPASSDATA/attachments/2016_04/15/5f7f3fb56053d-d33835.pdf (referring to the Samaritans as a “[Jewish] tribe with similarities to Judaism” and a cemetery in Nablus as a “Jewish (Samaritan)” cemetery); see also, Muhammad Hamed, Samaritans . . . Palestine Jews Constitute the Smallest Sect in the World, Al-Quds Al-Arabi (Apr. 25, 2019), (in Arabic) المسامرون... يهود فلسطينيون يشكلون فئة أصغر في العالم https://www.alquds.co.uk/%d8%a7%d9%84%d8%b3%d8%a7%d9%85%d8%b1%d9%8a%d9%88%d9%86-%d9%8a%d9%87%d9%88%d8%af-%d9%81%d9%84%d8%b3%d8%b7%d9%8a%d9%86%d9%8a%d9%88%d9%86-%d9%8a%d8%b4%d9%83%d9%84%d9%88%d9%86-%d8%a3%d8%b5%d8%ba%d8%b1/


151. See id. (understanding the three separate citizenships of Israeli, Palestinian, and Jordanian Samaritans in Kiryat Luza as hinting at a community “identity
the two religions is only reinforced by the privileges Israel bestows upon them, \(152\) which are themselves due to the group’s proximity to the Jewish faith. \(153\) At the same time, many prominent Palestinian politicians and nationals view the Samaritans as a crucial part of their social fabric and a testament to its diversity. \(154\) Many in the Palestine Liberation Organization (PLO) and the PA, including Yasser Arafat, Nabil Sha’th, Saeb Erekat, and Ikrina Sabri, the Grand Mufti of Jerusalem and Palestine, have referred to Samaritans as “Palestinian Jews” \(155\) as a way of countering Israel’s claim as the home of the Jewish people and bringing the group closer to the fray of community action. \(156\) Although the Samaritans never liked the designation, it is noteworthy that neither they nor the Chief Priest explicitly objected to it. \(157\)

The PA’s positive stereotyping of the Samaritans influenced its chairman, Yasser Arafat, to modify the Electoral Law in 1995 \(158\) to

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\(152\). AYYASH, supra note 32, at 124.

\(153\). See DROEBER, supra note 32, at 103 (arguing the Samaritans determination to not leave their “holy land” may be the only reason why have not experienced the difficulties of other minorities in the region).

\(154\). See Human Rights Committee, supra note 31, ¶¶ 325, 328, 434, 445, 449 (listing, among other facts, several provisions for Palestinian Samaritans in social, religious, and political spheres).

\(155\). But see Pinhas Inbari, Who Are the Palestinians?, JERUSALEM CTR. FOR PUB. AFFS. (Aug. 7, 2017), https://jcpa.org/article/who-are-the-palestinians (showing that “there is no trace of a ‘Canaanite’ ancestry” when viewing how Palestinian families describe their lineages). During the Camp David Summit of 2000, Chairman Arafat polemicized the Samaritan’s religious objections to the Jewish Temple in Jerusalem and suggested that “the Temple didn’t exist in Jerusalem, it existed in Nablus.” See generally ERIC H. CLINE, JERUSALEM BESIEGED: FROM ANCIENT CANAAN TO MODERN ISRAEL 161–62 (2004) (illustrating the tensions between Muslims and Jews regarding the history of Jerusalem); see also AYYASH, supra note 32, at 172.

\(156\). See CLINE, supra note 155, at 161–62 (maintaining that modern leaders overlook the complexity of the issue when citing Jewish, Muslim, and Christian histories).

\(157\). “Samaritans are tightly linked to their heritage and by the Chief Priest, who is the head of the community based on his lineage from the priestly family. Our reference is solely to the Priest. We take orders and follow the guidance of our Priest. We are a small community; we cannot be divided. We have to have one leadership and one path to follow.” Aziz Interview, supra note 148 (stating further that even the chief priest is not “openly opposed [to] the [Palestinian Authority]”).

\(158\). See Elhanan Miller, Clinging to Ancient Traditions, the Last Samaritans...
include a Samaritan quota seat in the Legislative Council for the Palestinian Samaritans of Nablus. Despite the very small number of eligible Samaritan voters, Arafat was widely understood to have positively discriminated in favor of the community as a way to counter Israel’s inclusion of Samaritans as Israeli citizens. While Palestinians at large welcomed this decision, the reaction within the Samaritan community was mixed. In 2005, the Palestinian

Keep the Faith, TIMES OF ISR. (Apr. 26, 2013, 12:49 AM), https://www.timesofisrael.com/clinging-to-ancient-traditions-the-last-samaritans-keep-the-faith (detailing how, officially, the Palestinian Authority “embraced” Samaritans); IFES, IRI, & NDI, PALESTINIAN ELECTIONS: A PRE-ELECTION ASSESSMENT MISSION REPORT 44 (Aug. 2002) (reporting Yasser Arafat’s interventions in elections); Law no. 15 of Dec. 7, 1995, art. 5.2, Palestinian Nat’l Auth. (Election Law) (Pal.) (providing proportionality requirements for seats in district councils). The regulations implementing this Law shall establish the number of seats of the Council allocated to each district, which shall be proportional to the number of their inhabitants, subject to a minimum of one for each constituency, and shall also establish which districts shall have some seats specially reserved for Christians and the number of these seats, in addition to one seat for the Palestinian Samaritans in the constituency of Nablus.


160. See NAT’L DEM. INST. FOR INT’L AFFAIRS & THE CARTER CTR., THE JANUARY 20, 1996 PALESTINIAN ELECTIONS 32–33, 80 (1997) (reporting that the distribution of seats on the Council “was not strictly based on registration or population figures”). During the first elections, the High Priest Salloum Cohen was the first Samaritan representative in the Palestinian Legislative Council. See David Schenker, Palestinian Democracy and Governance, 51 WASH. INST. FOR NEAR E. POL’Y 1, 11 (2000) (breaking down the Council’s religious composition); see also Samaritan High Priest Saloum Cohen Dies at 82, HAARETZ (Feb. 10, 2004), https://www.haaretz.com/1.4710850 (stating that the “spiritual head” of the Samaritans sat on a reserved seat in the Palestinian parliament for several years).

161. C.f. Miller, supra note 158 (describing Yasser Arafat’s attempts to benefit the Samaritan community, including giving scholarships to students to study abroad).

162. See Bassam Yousef Ibrahim Banat, Samaritans Caste: A History of Thousands of Years, 4 INT’L J. HUMAN. & SOC. SCI. 175, 179 (2014) (asserting that Samaritans “take pride in their Palestinian belonging” as part of their shared interests with the larger Palestinian society).

163. Three out of the five Samaritan families (total 100 eligible voters in the community) fought over candidacy in hopes that they would retain a position of power. Eventually, it was decided that only Saloum Cohen, who had a close relation to Chairman Arafat, could be the official candidate for the community. Aziz Interview, supra note 148 (opining that Samaritans “are a very small community but with many opinions”).
The presidency decided to annul all quota representations—women, Christian, and Samaritan—in the Palestinian Legislative Council to achieve what was promoted as “a more inclusive electoral model.” After subsequent lobbying, quota seats for women and Christians were re-allocated, but not to Samaritans. Their ambivalence to play a role in the PA’s political institutions is based on a perceived opinion that the Palestinian State is too weak to bring about a modern and prosperous national state-building project. Instead, fearing backlash or ostracization inside Israel, the Samaritans disengaged and retained their official image as apolitical.

164. “The regulations implementing this Law shall establish the number of seats of the Council allocated to each district, which shall be proportional to the number of their inhabitants, subject to a minimum of one for each constituency, and shall also establish which districts shall have some seats specially reserved for Christians and the number of these seats, in addition to one seat for the Palestinian Samaritans in the constituency of Nablus.” Law no. 15, supra note 159, art. 5.2.

165. Palestine Election Law No. 9 of 2005 was adopted to expand the legislature from 88 to 132 seats. See 2007 Decree on General Election, Chairman of PLO Executive Committee, President of Palestinian Nat’l Authority, Sept. 2, 2007 (Pal.) (prescribing the method for electing Council members but disregarding the Samaritan quota); see also Law No. 10, arts. 17, 71, 2005 (Election Law) (Pal.) (ignoring Samaritans in the quota of women representatives). A law issued by decree number (1) of 2007, relative to the general elections: Article (4): Electing the Council Members; Article (5): Through a decree a number of the Council seats shall be allocated to Christian Citizens. Presidential Decree No. 4 of 2010, 9 Jun. 2010 (Palestine); Presidential Decree of 2016, 31 Jul. 2016 (Palestine); Presidential Decree of 2017, 15 Jul. 2017 (Palestine).

166. Notwithstanding the fact that the Samaritan quota representation has been annulled since 2005, yet the Palestinian government in its first ever report submitted to the Human Rights Committee in its fulfillment to its international obligations under article 40 of the International Covenant on Civil and Political Rights. For more information, see Human Rights Committee, supra note 31, ¶¶ 434, 449 (providing for the allocation of a seat to represent Samaritans in Nablus and calling for the “active involvement of all Palestinian people in the administration of public affairs”).

167. See SCHREIBER, supra note 9, at 80–83 (attributing this “ambivalence” to less contact with Israelis, socialization in Palestinian education systems, and strong susceptibility to political change).

168. Tsadaka 2019, supra note 106 (arguing against Samaritans having “any dealings with the Palestinian government”).

169. According to Benyamin Tsadaka, a Samaritan historian, author, head of the Israelite Samaritan Information Center and a leading figure in the Holon community, the engagement of the Samaritan community in the Palestinian political life is unnecessary and brings about tension in their relationship with Israeli political institutions. In his opinion, there is more to lose on the Israeli side,
The deeply enmeshed nature of faith and national political agendas in the region makes the avoidance of any political stance nearly impossible for a minority community as ideally situated as the Samaritans. While the group maintained cordial relations with all parties in the early days of Israel’s statehood, tensions peaked between the Samaritans and their respective allegiances at the outbreak of the second intifada in September 2000. Their unwitting involvement in politics became explicit when the Samaritans’ expressed concern that their ties to the Palestinian community might compromise their relationship with Israel and the advantages which come with it. Ultimately, the Samaritans sent an official delegation to the Palestinian President and requested annulling the Samaritan quota, in a move generally perceived as a self-interested rejection of their association with the Palestinian community.

Samaritan presence in the Israeli civil administration proved a further sticking point during the tumultuous days of the first intifada. In response to Israel’s attacks on their community, Palestinian civil society led a boycott of Israeli institutions.

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rather than the gains that they might obtain from the Palestinians. Accordingly, Samaritans retain their role as a bridge for peace between Israelis and Palestinians and should refrain from any involvement in the Palestinian political life as it is counterproductive for them. Interview with Benyamin Tsadaka, Samaritan Historian, Editor of A.B. Newspaper, Historian and Author, in Nablus (Apr. 15, 2018) (arguing that there is “no point” in Samaritans entering the political fray); AYYASH, supra note 32 at 123.


171. Tsadaka 2019, supra note 106 (pointing out that becoming involved in the Palestinian government “does not bring . . . Samaritans any benefits”).

172. Assamri, supra note 147 (calling the move for Israeli citizenship a “pragmatic” move that granted Samaritans economic and health benefits).

173. See SCHREIBER, supra note 9, at 78–81 (identifying the “recent economic ascent” of Samaritans and Arafat’s “indemnities paid . . . for damages incurred by Samaritans during the First Intifada”).

Nonetheless, rather than participate in solidarity with the oPt citizenry, Samaritans living in Nablus actively distanced themselves from the resistance movement and continued to work for the Israeli administration while receiving their benefits. A small minority did however begin participating in protests and donated money to the Intifada Fund, which further testifies to the mixed nature of the relationship between the Samaritans and their broader ethnoreligious communities.

At the leadership and institutional level of the community though, their fealty to Israel as the granter of civic and political rights and employment opportunities has largely guided their politics during various conflicts in the region. Though some expressed fidelity to the Palestinian cause, they did so being protected, untargeted, and enjoying a margin of freedom of movement and access to basic needs. The intifada and subsequent conflicts therefore brought new opportunities to further polarize public opinion about the Samaritans, leaving the community misunderstood and maligned by both sides. This experience distinctively displays the intricacies of the Nablus Samaritans’ identity within Palestinian culture: on most occasions


176. See, e.g., id. at 42 (demonstrating the difficulties that Samaritans who worked in government jobs in the Occupied Territories faced because of their “collaboration” with Israeli authorities).

177. See generally SCHREIBER, supra note 9, at 75-82 (indicating clashes in “survival strategies” regarding association with Israelis versus Palestinians that affect their political affiliations).

178. However, this unique treatment led some Palestinians to express anger at the Samaritans. Some Palestinians even considered Samaritans to be an arm of the Israeli occupying regime, or labeled them as settlers, collaborators, or traitors. See id. (showing the differences in mobility and opportunities afforded to Samaritans based on their affiliations).

179. See Yousef & Barghouti, supra note 175, at 43 (noting that there were differences in the treatment of Samaritans based on “the origin of the [military] commander” of the day, with commanders “from oriental origin deny[ing] the Samaritans [special care] and treat[ing] them like the other Palestinians”). Those who actually feared for their safety and security and traditionally lived in the old city of Nablus in the Yasmin Quarter moved to their holy sanctuary, Mount Gerizim, and took up permanent residence there. Since then, Mount Gerizim has been the main neighborhood occupied only by Samaritans.
they can pass as Arabs, but during moments of heightened political tension, their allegiance is called into question given their privileged access to rights as holders of Israeli citizenship.\footnote{180. See, e.g., \textit{id.} (describing the impact of Samaritan affiliation on tensions with members of the Unified Leadership of the Intifada).}

Key figures\footnote{181. The High Priest Adballah Wassef Al Samri, the head of the Samaritan community, gave a pre-nationalistic answer to the question of identity and belonging: “The question of national identity is very simple for me. We have been here for thousands of years, we are not only Nabulsi, but we are an inextricable part of the Palestinian people. Although we have our own religion and traditions, we are not Jews, indeed we have thousands of differences between Samaritanism and Judaism.” \textit{Interview with Abdallah Wassef, High Priest and Head of Samaritan Community, in Nablus (Mar. 19, 2019) (understanding that the “question of national identity is very simple”).}} of the Samaritan community in Nablus still insist they are Palestinians and part of the Arab nation despite their ties to Israel. For example, the General Director of the Palestinian Ministry of Education,\footnote{182. Interview with Ishaq Radwan Al Samiri, Former General Director, Palestinian Ministry of Education, Current Diplomat, Palestinian Ministry of Foreign Affairs, in Nablus (Mar. 19, 2019).} who is Samaritan, summarized his identity as follows:

Do you have a phone with a recorder? Can you record what I am about to share with you? [in a loud voice, he shouted] I am a Nabulsi, I am a Palestinian, I am an Arab. The Palestinian Liberation Organization is my official representative, Fateh is my party, and Yasser Arafat, the late Palestinian president, may God rest his soul, was my leader and father [metaphorically, to reassert his allegiance].\footnote{183. \textit{Id.} At the time of the interview, Mr. Ishaq Radwan Al Samiri was a General Director at the Palestinian Ministry of Education. In March 2021, he has been appointed as a diplomat serving at the Palestinian Ministry of Foreign Affairs.}

Cohen Hosny Wassef, the Museum director mentioned above, also sees the fate of the Samaritans as forcibly tied to the Palestinians.\footnote{184. He said: “We are an inseparable part of the Palestinian people, we are Palestinian. Samaritans, Christians and Muslims are together what constitute the Palestinian people. The three religions have lived on this land for thousands of years, sharing the good and the bad. We are at adversity with the Jews, they disdain us, for them we are Kuthim. This is a major insult for us.” \textit{Assamri, supra note 147} (declaring Samaritans as an “inseparable part of the Palestinian people”).}
This tie was further strengthened in 1995, when the PA issued them Palestinian de facto citizenship documents (identification card and passport),\(^{185}\) following the Samaritans’ inclusion via a quota seat at the Legislative Council.\(^{186}\)

Notwithstanding such figures and the Basic Law of Palestine—which establishes rights to all Palestinians (including freedom of religion)\(^{187}\) without discrimination based on race, sex, color, religion, political views, or disability\(^{188}\)—the Samaritans’ Palestinian legal status remains rather ambivalent. The list of recognized non-Muslim Palestinian communities explicitly spells out twelve recognized Christian communities and Jews of Palestinian descent,\(^{189}\) without any mention made of the Samaritan people or the Samaritan community.\(^{190}\) This means that, contrary to recognized non-Muslim ethno-religious communities who have access to their respective special Personal Status Courts as mentioned in the previous Part,\(^{191}\) Samaritans are left with only access to the state-run judicial system

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\(^{185}\) For information about the de facto citizenship documents of the Palestinian inhabitants of the West Bank, East Jerusalem and Gaza Strip, see Qafisheh II, supra note 67, at 118–19 (describing the invention of “West Bank citizenship”).

\(^{186}\) According to Cohen Hosny, in 2019, a delegation from the Samaritan community in Nablus met with Palestinian president Mahmoud Abbas requesting regranting a quota in the next PLC election. In 2019, the Palestinian president decided to directly appoint the Samaritan High Priest as a member in the Palestinian Central Council (PCC) which acts as a link between the PA and the PLO. Assamri, supra note 147 (stating that the Palestinian government “[had] promised . . . to reallocate a quota”).


\(^{188}\) Id., at art. 9 (“Palestinians shall be equal before the law and the judiciary, without distinction based upon race, sex, color, religion, political views or disability”).


\(^{190}\) Id.

\(^{191}\) Id.
or the Sharia courts, thereby contributing once again to their hybridized social and political identity.

In sum, the ambiguous place of the Samaritans within both Israeli and Palestinian societies and legal systems is a product of their unique status as a religious minority that belongs to the Abrahamic tradition but does not adhere to any of its three major faith groups. This ambiguous status has allowed for their continued inclusion in Zionist political institutions, largely against the wishes of long-standing rabbinical opinions, as well as in Palestinian political movements. Their engaged presence in Holon and the oPt and their particular religious status have allowed the Samaritans’ legal possibilities to expand, while other minorities continue to regress, in the eyes of the law. The following sub-section will explore this inverse relationship in more detail and highlight how Palestine’s pluralistic legal and juridical systems enable it.

192. CERD, Initial and Second Periodic Reports Submitted by the State of Palestine under Article 9 of the Convention, Due in 2017, at 8, U.N. Doc. /C/PSE/1-2 (2018) [hereinafter CERD Report] (stating that Samaritans follow their own laws “relating to marriage, divorce, inheritance and food”). Besides, the Samaritans understandably tend to selectively resort to Sharia courts only when there is a vested interest. C.f. Yousef & Barghouti, supra note 175, at 34 (demonstrating that the main interests of the Samaritans are to survive, keep their identity, and maintain neutrality and good relations with neighbors and factions).

193. Samaritans in Nablus resort to Sharia courts for personal status matters including for example inheritance, mental incapacitation and widowering deeds. Court of Appeals Decision No. 223 of 2010, Personal Status, 18 Oct. 2010; AYYASH, supra note 32, at 125.

194. For the rejection and derision of Jewish communities of the Samaritans, see generally SCHREIBER, supra note 9, at 38–39 (overviewing “two diametrically opposed positions” on the questions of who the Samaritans are and why they are separate from the Jews); see also Lawrence H. Schiffman, The Samaritans in Amoraic Halakhah, BRILL, 371, 372 (2012), https://doi.org/10.1163/9789004235458_019 (noting the “ambivalence and even disagreement” about the Samaritans in the amoraic halakhah); AYYASH, supra note 32 at 125.

195. See Yousef & Barghouti, supra note 175, at 43 (highlighting the fact that Samaritans in Nablus have been in political harmony with Palestinian society); see also Ayaseh, supra note 109.

C. “GOOD SAMARITANS”: THE PREFERENTIAL TREATMENT OF SAMARITANS WITHIN PALESTINIAN INSTITUTIONS

The previous section highlighted the Samaritans’ ambiguous position in Palestinian and Israeli politics and their respective ethno-religious narratives when placed in different social and political environments. This section will show how this unique positionality is adapted by the Samaritans in various ways to take advantage of Palestine’s ‘neo-colonial’ pluralism and its failings under the PA.

Previous sections have mentioned that the Samaritans are not an officially recognized religion in Israel or Palestine. The Palestinian Civil Status Registry is required to include the religion of each citizen on official certificates, including birth, death, and marriage certificates. The PA, however, denies official recognition of Islamic sects such as Sufi, Isma’ili, Ahmadi, and Ja’afarī, as well as Jehovah’s Witnesses and the Baha’i, but selectively shows tolerance and positively discriminates in favor of the Samaritans, who do not belong to any of the recognized faiths, and allows them full religious freedom. When asked about this type of favoritism towards the Samaritans and their conspicuous absence from government registries, Palestinian Deputy Minister of Interior Hassan Alawi199 focused on the need to consider them Palestinians:

Whether Samaritans are Jews belonging to a monotheistic religion, or members of a separate religion that is unrecognized in Palestine is a very troubling question. This is an intriguing case that we haven’t thought much about it. This can stir tension and divide the Palestinian people. For us, this is a complicated political issue where it is better not to look into the legal questions around it. They are Palestinians and have always lived

199. Interview with Hassan Alawi, Deputy Minister, Ministry of Interiors, in Ramallah (Sept. 10, 2019) [hereinafter Alawi Interview] (pushing back on the need for doing research on Samaritans in the first place when “[there] are much more important subjects than this one”).
in Nablus. Our duty is to protect them.  

Such evasive responses from officials are common when faced with concerns over Samaritan positionality in Palestinian society. For example, the Legal Advisor for the Interior Ministry, Ahmad Thabalih, replied to similar concerns by noting that the Palestinian registry system is replicated from Israel’s and is based on legally binding statutes from the Oslo Accords. Thabalih argued that because Palestinians cannot change this system, it has remained static in its treatment of certain minority groups:

[We] Palestinians have never prepared our own civil registry and records. The system was transmitted to us from the Israeli Civil Administration in accordance with the Oslo Accords. We are obliged in accordance with the Peace Agreement to coordinate and share our system with the Israelis. Our system doesn’t deliberately include or exclude any group. We enter the data in accordance with the system that they have provided us with. In the system we have a field for religion that we must fill in, and we have 14 groups that are based on the Israeli data base. We have Druze as a category although there are no Druze in the West Bank or Gaza. We technically follow templates and an already built system for us.

Though this sentiment points to the aforementioned constraints of a ‘neo-colonial’ pluralism on effective governance, it fails to acknowledge any desire on the part of government officials to change these decrees even if they did have the ability to do so. Such ambivalence demonstrates the PA’s explicit favoritism of Samaritans even outside or despite the law. A prominent example is the official recognition given to the Samaritan Chief Priest, who enjoys the privileges as an ordained religious head of a minority community, despite not having any legal grounding for such a de facto title.

200. *Id.*

201. Interview with Ahmad Thabalih, Deputy Minister, Palestinian Ministry of Justice, in Ramallah (Oct. 5, 2019) [hereinafter Thabalih Interview] (stating that the Palestinian registry “was designed and built by ‘our cousins’ [referring to the Israeli authorities – Abrahamic root, cousins of Muslims]”).

202. *Id.*

203. Since Samaritans as a community is not recognized as an official religious community in Palestine, consequently legally and formally speaking the head of the community, known as the chief priest, doesn’t enjoy an official status, however the chief priest enjoys de facto powers such as administering the internal civil
Through the PA, he receives benefits including health insurance, a car, and a salary to protect and administer the affairs of his community, like his Christian and Muslim counterparts, without having the authority to do so.\textsuperscript{204}

In addition to the official recognition of the Samaritan Chief Priest, leading a non-recognized minority religion, is the appointment of a Samaritan mokhtar (community leader)\textsuperscript{205} by the Minister of Local Governance, Saeb Erekat, who according to the prevailing laws does not have the jurisdiction to exercise such powers.\textsuperscript{206} The appointment of a community leader by the PA for such a small minority religious group that already follows the leadership of its High Priest reflects the PA’s contradictory approach to the Samaritans, who are alternatively understood as members of a minority religion, a tribal community similar to the Bedouins, and an ethno-racial minority.\textsuperscript{207} Samaritans are tightly linked to their heritage and by the Chief Priest, who is the head of the community based on his lineage from the priestly family.\textsuperscript{208} Therefore, the decision to appoint a mokhtar stirred contempt and spurred internal power clashes within the community.\textsuperscript{209} A main point of contention centered on who had the ultimate authority over the community: the affairs of the community, including officiating marriage contracts. \textit{See} Zeina Jallad, When Human Rights Go Wrong: The Limits of International Human Rights Law in Two Case Studies from the Arab Region 169 (2022) (J.S.D. dissertation, Columbia University) (observing to the ambivalence characterizing the Palestinian Authority’s legal and extra-legal favoritism of Samaritans).

\textsuperscript{204} Aziz Interview, \textit{supra} note 148 (explaining the privileges that the Chief Priest receives that are “similar to any head of [a] religious community”).

\textsuperscript{205} In Turkey and some Arab countries, a mokhtar is the head of local government of a town or village. Jallad, \textit{supra} note 203 (describing the role of the “mokhtar”).

\textsuperscript{206} According to the Palestinian law, the Governor has the capacity to appoint leaders (Mokhtar) and not the Minister of Local Governance. Law. No. 52 of 1958 (the Mukhtars Law within the boundaries of municipal areas and local councils), art. 4, 1958.

\textsuperscript{207} Interview with Khaled Zawawi, Director of Public Relations, Palestinian Ministry of Religious Affairs, in Ramallah (July. 25, 2019) [hereinafter Zawawi Interview] (explaining, in part, the complexity of Samaritan identity).

\textsuperscript{208} Aziz Interview, \textit{supra} note 148 (explaining that Samaritans’ “reference is solely to the Priest”).

\textsuperscript{209} \textit{See id.} (noting that the community already had a Chief Priest).
mokhtar or the High Priest. Most Samaritans, due to their deep religiosity and the centrality of the High Priest in their community, felt that the Minister was attempting to supersede the role of the High Priest. As a result, they attribute appointment of the mokhtar to vested interests between him and the Minister and regard him with contempt.

The PA’s peculiar treatment of the Samaritans and its selective tolerance for their community’s practices raise existential questions as to why and how the PA reads the Samaritans as legal subjects. For political reasons, the PA instrumentalizes a discourse referring to the Samaritans as the “Jews of Palestine,” as explained in the previous subsection. Yet historically, legally, and theologically speaking, Samaritans are not the Jews of Palestine who resided on the Land of Palestine before 1948. Given that Samaritans do not regard themselves as Jews and the Jewish orthodoxy excludes them from Judaism, it remains unclear why the PA continues to avoid granting them official recognition as a religious group.

The PA’s relationship to the Samaritans also raises concerns about discrimination and denial of rights to other social and religious minorities. There is no consistent institutional logic in allowing the Samaritans access to legal recourse and rights, while intolerance remains writ large for the Ahmadi, Jehovah’s Witnesses, those who desire to belong to a secular identity, or other groups, like women.

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210. See id. (lamenting the “big divide” the appointment created).
211. See id. (believing that there was not a need for the government to appoint such a leader in the community).
212. See id. (speculating that the appointment of a “random guy” may have involved some vested interest).
213. Zawawi Interview, supra note 207 (stating that Samaritans “have to show to every sovereign that they belong” and “are part of every system”).
214. Based on the Population Statistics of the Late Ottoman Period and the Mandate (1990), before 1917, the number of Arab Jews who lived and held the Ottoman citizenship in historical Palestine was 39,000 in comparison to over 700,000 Ottomans, including Muslims and Christians living in historical Palestine. For more information, see Demography and the Palestine Question (I), PALESTINE JOURNEYS https://www.paljourneys.org/en/timeline/chart/6639/demography-and-palestine-question-i-population-figures (last visited Mar. 19, 2022) (graphing the changes in Palestine’s religious demographics between 1914 and 1947).
215. Zawawi Interview, supra note 207 (arguing that “there is not [a] real collective effort” among the Samaritans “to protect the religion”).
and the LGBTQ community. Instead of an underlying institutional logic, the PA’s treatment of the Samaritans is simply the byproduct of political instrumentalization. When considered by the PA as “Palestinian Jews,” in addition to being such a small and unthreatening group, the Samaritans conveniently showcase the PA’s alleged tolerance in contrast with Israel’s treatment of the Palestinians.\(^{216}\) Such an interpretation would be consistent with Arafat’s expressed interest at countering Israel’s inclusion of Samaritans as Israeli citizens, when granting them a quota seat at the Legislative Council.\(^{217}\) All in all, not only are the Samaritans benefitting from their hybrid identity and institutional location,\(^ {218}\) but both the PA and Israel use them to profit in their relationship to one another, as will be seen in the following section.

\textbf{D. SAMARITANS AS LEGAL SUBJECTS: THE POSITION OF SAMARITANS IN ISRAELI INSTITUTIONS}

Having established the Samaritans’ unique position in the Palestinian system and their preferential treatment by its governing class, this section will explore how Israeli policies have also influenced their current position. To do so, it will focus on the role of Samaritans in the Israeli national narrative and their status within the country’s institutions, before looking at case studies showing which advantages these dual imaginations bring the community.

Over the past several decades, Israel has adopted laws that expand the definition of Jewishness\(^ {219}\) to secure higher levels of Jewish immigration, despite the opposition of the Rabbinic establishment.\(^ {220}\)

\begin{footnotesize}
\begin{enumerate}
\item \textit{See id.} (remarking that the Palestinian Authority “deals with the Samaritans as a décor” necessary “to emphasize on the Jewish component in the Palestinian narrative”).
\item \textit{C.f. id.} (noting that the Israeli citizenship of Nablus Samaritans’ “is more than an arrangement . . . it is more than a tool to facilitate their everyday life, it is not only about having access to their relatives in Holon . . . [but it] is a form of an absolute identity”).
\item \textit{See generally} Urien-Lefranc, \textit{supra} note 128, at 87 (providing the background for Samaritan ethnoreligious and geographic identity).
\item \textit{See, e.g.,} Corinaldi, \textit{supra} note 6, at 2.89 (describing how the situation involving Samaritan marriages to Jews has “changed somewhat”, with male Samaritans being able to marry Jewesses on certain conditions).
\item \textit{C.f. MINISTRY OF DIASPORA AFFAIRS, REPORT OF THE PUBLIC ADVISORY}
\end{enumerate}
\end{footnotesize}
Concurrently, while expanding the legal definition of a Jew and adopting policies to increase its Jewish majority, it has used all possible means and policies to exclude non-Jewish minorities.\(^{221}\) The Samaritans have unwittingly been cast into consequential debates surrounding the definition of Jewishness due to their inclusion in the Law of Return.\(^{222}\) Defining Jewishness has been central for expanding the state’s territory and citizenry, as well as their promulgation of a positive and inclusive national image on the global scene.\(^{223}\) When taken in this context, the Samaritans can be seen to have played a significant role in Israel’s attempt to authenticate its history with the land and, as a result, fragment the Palestinian people.\(^{224}\)

The Samaritans since 1949 held a *de facto* Jewish Status under the Law of Return (cemented by a ruling in 1954) until 1992 when their right to be Israeli citizens under said law was questioned.\(^{225}\) Ultra-Orthodox factions in the Israeli government worked to exclude them from the scope of the Law of Return, led by Aryeh Deri, the co-founder of the ultra-orthodox religious political party Shas and then

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\(^{221}\) See, e.g., Tatour, supra note 7, at 9 (describing various methods by which the Knesset has entrenched its view of Palestinians through a 2018 statute).

\(^{222}\) See Urien-Lefranc, supra note 128, at 88 (demonstrating how Samaritans have sought to differentiate themselves from Judaism as well as from Palestinian and Israeli citizenship).

\(^{223}\) For a detailed analysis of such a process as part of Israel’s settler-colonial approach to state building, see Jallad, supra note 203, at 114 (stating that the Law of Return provides an example of a “civic-territorial doctrine” that gives a legal basis for communities to gain legal rights rights). In the present paper, my analysis is limited to providing the factual and legal context to the Samaritans’ re-inclusion within the scope of the Law of Return.


\(^{225}\) See Corinaldi, supra note 6, at 2.89 (highlighting the de facto recognition as being “sufficient for practical purposes”); see also, Haim Shapiro, *Samaritans: ‘We Call Ourselves Israel’*, JERUSALEM POST, (June 8, 1993) (reprinted in 37 A.B. SAMARITAN NEWS (1993)) (citing Tzedaka’s attempt to gain a Jewish identification card in 1990).
Minister of Internal Affairs.\footnote{226}{\textit{See} Schreiber, \textit{supra} note 9, at 59 (asserting that ultra-Orthodox religious parties are the cause for the continuing “rabbinical antipathy” against Samaritans).} Deri denied a Nablus Samaritan the request to “emigrate” from Nablus to Israel, “on the grounds that they fail the elements of the Jewish identity.”\footnote{227}{\textit{See} Corinaldi, \textit{supra} note 6, at 2.90 (demonstrating the Israeli government’s change of policy).} Deri further argued that, based on the amendment of the Law of Return of 1970, Samaritans are considered non-Jews belonging to a different religion and therefore not within the scope of the law.\footnote{228}{\textit{See} Schreiber, \textit{supra} note 9, at 59 (pointing to the Samaritan sister decision as an example of the Ministry of the Interior excluding non-Jewish Samaritans).} Deri successfully barred Samaritans from seeking immigration visas (\textit{Oleh}) to Israel as \textit{Olim Hadashim}.\footnote{229}{\textit{See} id. at 59 (citing Deri’s position as Minister of Internal Affairs as part of the “legal complications” in “smooth Samaritan-Jewish” relations).} Almost overnight, their legal status was lost, seemingly arbitrarily and without substantive justification.\footnote{230}{\textit{C.f.} Menachem Mor, \textit{Who is a Samaritan?}, in 25 Studies in Jewish Civilization 160–61 (Leonard Jay Greenspoon ed., 2014) (overviewing the decades-long arguments underpinning Samaritans’ requests to emigrate as “oleh hadash”, or new immigrant, including the assertion that they are part of the Jewish nation due to their tradition following the law of Moses).}

The Samaritans vigorously lobbied to reclaim their immigration status and filed a petition for conditional order before the Supreme Court of Israel in 1993.\footnote{231}{Shapiro, \textit{supra} note 225, at 37.} In their petition,\footnote{232}{Petition No. 4200/94 to the Israeli High Court of Justice, \textit{reprinted in} 606 A.B. Samaritan News 48 (Mar. 15, 1994) (Isr.) [hereinafter Samaritan News].} instead of resorting to legal arguments, the Samaritans used historical arguments asserting the specific nature of their religious identity and its proximity to the Israeli national narrative to re-gain their position within the scope of the Law.\footnote{233}{Based on the expert opinions of Professor Smaryahu Talmon and Dr. Menhem Mor, Michael Corinaldi, the Samaritans’ lawyer before the Supreme Court, raised two arguments pertaining to their denial of Olim Hadashim legal status. Corinaldi asked the state what kind of changes might have occurred between 1949, when the Samaritans were granted the Right of Return, and 1992 to justify the change to precedent by the Minister of Internal Affairs. He also forcefully rejected the argument that Samaritans belonged to a different religion, arguing that the definition of “Jew” for the purposes of the law was based on a secular modernist interpretation, not in accordance with Rabbinic criteria. Corinaldi, \textit{supra} note 6, at 2.91.} These arguments resulted in an agreement between the
Samaritans and the Ministry of Interior in March 1994, when the Israeli court re-affirmed the right of Samaritans to receive immigration visas and to be treated as *Olim Hadashim*, like all other Jewish immigrants coming to Israel. The Samaritans were therefore successful in forcing the government to re-instate its 1949 policy to treat all Samaritans as Jews traversing from Arab countries and grant them access to Israeli citizenship and all associated rights.

Although the decision clearly showed the extent of Samaritan influence in the Israeli court system, the 1994 ruling to reinstate their immigration status differed in important aspects from earlier inclusions of the Samaritans in the Right of Return. Nablus Samaritans have largely never stated any possibility of leaving their homes in the West Bank and abandoning their aforementioned socio-cultural ties to the Arab-Palestinian community. Given the reality of the Samaritans’ disinterest in practical immigration, it would appear that Israel’s reversal of its decision is, above all, in the interest of expanding their own citizenry and enhancing their image on the global stage. This would also explain the significance of the Samaritan identity for their success at changing Israeli law. In this context, the opened-arms stance to the Samaritans may be seen more concretely as an attempt by the state at Judaizing a distinctly non-Jewish community that has rejected any such subsummation for centuries.

The feigned nature of the Samaritans’ proximity to Israeli identity becomes more apparent in light of the arbitrary classification of community members under official state census statistics after the 1994 law passed. Until the 1995 Israeli National Census, Samaritans were counted as members of the Druze population, a minority

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235. *Id.*
236. See *Schreiber*, *supra* note 9, at 69–72 (discussing the living conditions of Samaritans over time).
237. *Id.* at 70.
238. For detailed analysis of the significance of the inclusion of the Nablus Samaritan minority in the Israeli Law of Return, see *Jallad*, *supra* note 203, at 163.
category which encompassed a range of religions including Muslims and Hindus. From that census to the present day, the Samaritans stand separate from the traditionally “minority” Druze category and belong instead to the category of “no religious affiliation.” This ambivalent status echoes their similar position in Palestinian law. The Samaritans ultimately are not acknowledged as having their own faith in the Israeli legal system but are instead defined simply as “non-Jewish.”

Their position within the two systems shows that Nablus Samaritans are legally annexed to the Jewish people, institutionally non-Jewish, religiously Samaritan, selectively Palestinian, and culturally Arab. The following Part will show how the Samaritans learned how to navigate these interlocking circumstances to their advantage through six case studies. The examples provide detailed accounts of the shortcomings and opportunities presented by the “extreme legal pluralism” that characterizes Palestine.

IV. SIX EXAMPLES OF SAMARITAN NAVIGATION OF LEGAL PLURALISM IN THE OCCUPIED PALESTINIAN TERRITORIES

This Part explores how the Samaritans use the multiplicity of their identity as a tool to negotiate their legal rights and offers concrete examples of strategies they have employed to do so. By using strategies of compliance, non-compliance, resistance, civic engagement, positive participation, and passive muted participation, Samaritans have remarkably expanded their duties, rights, and entitlements under both legal systems.

A. “IF YOU CANNOT BEAT THEM, JOIN THEM”: SAMARITANS AT THE NEGOTIATION TABLE DURING OSLO

The previous Part briefly evidenced the ways in which Samaritans engaged in politics despite their claims of disinterest and independence. The Oslo peace talks provide a further example of this

240. Id.
241. Id.
tendency. For Samaritans, the prospect of a peace agreement in the 1990s between the Palestinian Liberation Organization and the Israeli government created a familiar sense of uncertainty and collective anxiety.\textsuperscript{243} Samaritans were worried that any agreement might result in a division between the Samaritans in Nablus and Holon. Regardless of which sovereign was in control, their main priority was to ensure that the Samaritan people as a collective remained inseparable, and their access to their holy site continued to be uninhibited.\textsuperscript{244}

The group therefore deftly worked to remain current in discussions without requiring their absorption into the full agenda of any negotiating party.\textsuperscript{245} They were able to do so in large part because, unlike other ethno-religious minority groups inside Israel or in the oPt, Samaritans became their own stewards through ethno-political mobilization.\textsuperscript{246} The origins of this strategy can be seen in a 1993 excerpt from a local Samaritan newspaper, \textit{AB News}, urging the community to mobilize to protect itself from the possibility of “Israeli transfer of areas to Palestinians”:

> We cannot wait for events to shape our future. We must depend on no one but ourselves. Any scenario is now for the community’s future. Everyone involved is declaring that the recently signed accord is an agreement in principle only and does not go into details. We must not, however, rely on declarations any longer. Facts are being established behind the scenes, and we may find ourselves faced with a \textit{fait accompli}, which we have no


\textsuperscript{244} As the Samaritan Cohen Aziz expressed “We are such a small community, we do not care. We do as the Egyptian proverb says: ‘the man who marries my mother, I call him uncle.’ In other words, if Samaritans are powerless and cannot change their reality on the ground, at least they can cooperate and hopefully gain some advantages” (The Egyptian proverb (اﻟﻠﻲ ﻳﺠﻮزا اﻣﻲ ﺃﻟﻮل ﻳا ﺳم.i Literal translation: The man who marries my mother, I call him uncle.). Aziz Interview, supra note 148.

\textsuperscript{245} See Stephen Kaufman, Samaritan Political Identity 16–18 (1998) (unpublished M.A. thesis, Tel Aviv University) (on file with the Samaritan Political Identity Part II) (explaining that “the current status quo has been a very beneficial period” which incentivizes the Samaritans to maintain these benefits with upcoming challenges).

\textsuperscript{246} See MILTON J. ESMAN, ETHNIC POLITICS 27 (2018) (reflecting what an ethnic political movement represents to a community).
possibility of changing.247

Inspired by this and similar sentiments from within the community, Samaritans in Nablus and Holon came together in order to develop and ultimately present their own political agenda on the local and global stage.248 At the international level, they lobbied the United States and the United Kingdom for an improvement of the Samaritan situation in the West Bank and the inclusion of Samaritan rights in the final peace agreements.249 This lobbying included requests of reassurance for the future survival of the Samaritan community, the expansion of the Samaritans on Mount Gerizim, and guarantees of freedom of movement between the West Bank and Israel.250 Domestically,251 they lobbied the Palestinian and the Israeli negotiators to address their rights and settle the legal status of Mount Gerizim, while regionally they communicated with Egyptian and Jordanian officials to advocate for Samaritan religious, social, economic, and political rights.252 Their various and multi-layered efforts successfully resulted in a draft treaty, presented by the Samaritans to their Palestinian and the Israeli counterparts to be included in the Final Conflict Resolution Negotiations.253

The main concern of the Samaritans in protecting their holy ties to Mount Gerizim surfaced in the Oslo II debates and culminated in the eventual interim agreement detailing a plan to divide the mountain into various jurisdictions.254 The top of the mountain, an archeological site and an important sacred site for Samaritans, was classified as Area C (most historical sites in the West Bank are within Area C).255 The main purpose of this classification was to

247. Political Permutation, supra note 243.
248. The Samaritan Delegation to the United States and United Kingdom, 6430644 A.B. SAMARITAN NEWS 75 (Sept. 1, 1995) [hereinafter The Samaritan Delegation].
251. The Samaritan Delegation, supra note 248.
252. Political Permutation, supra note 243.
253. Id.
254. Id.
255. The city of Nablus itself is divided bizarrely: neighborhoods, the city’s main road, and Mt. Gerizim are located in C, while schools and infrastructure are
allow the redeployment of the Israeli army, ultimately codifying support for Israeli expansion in the name of security.\textsuperscript{256} As a result, the site remains effectively and fully under the direct control of the Israeli Department of Antiquities, despite its important place in the Samaritan imagination and history.\textsuperscript{257} The following section explores the consequences of this negotiation on the lives of Samaritans and shows the group successfully using similar strategies to leverage their positions in a more local context.

**B. LAWLESSNESS AND PRIVILEGE: EXCEPTIONALISM IN PRACTICE**

The post-Oslo II division of the West Bank into three administrative units (Areas A, B, and C) has been one of the main drivers of legal pluralism and one of the biggest problems in the codification of law and deliverance of rights to Palestinians.\textsuperscript{258} A comparison between the Samaritan neighborhood on Mount Gerizim and the town of Al Ram—both areas classified as B and C according to the Oslo Accords—will show the discrepancies in the application of legal pluralism and testify to the way in which the Samaritans used their position in this system to their advantage.\textsuperscript{259}

Al Ram, once known as the Northern Gate of Jerusalem, was a bustling trade center connecting Jerusalem to other districts in the West Bank.\textsuperscript{260} Following the Oslo agreement, the town was removed from the Jerusalem municipality.\textsuperscript{261} It was divided into both Area B

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\textsuperscript{256} See Nasser Ishaq & Peeka Hakala, *Area C: More than 60 % of the Occupied West Bank Threatened by Israeli Annexation*, EUROPEAN PARLIAMENT, 4–5 (2013) (“Israeli activities in Area C are in fact increasing at a rate that has raised serious concerns about the territory being annexed into Israel.”).

\textsuperscript{257} Urien-Lefranc, *supra* note 128, at 92–93.


\textsuperscript{259} See NAAMNEH ET AL., *supra* note 57, at 24 (commenting on the differing regulatory frameworks).

\textsuperscript{260} *Ar Ram Town Profile, supra* note 255, at 21.

\textsuperscript{261} *See Ar Ram: A Palestinian Town Facing the Threat of the Segregation*
and Area C, a major checkpoint was established with military posts, and a military base and settlements began circulating the town, restricting the movement of its residents.\textsuperscript{262} Accordingly, the PA is very limited in its ability to govern the town, and the Israeli Civil Administration is indifferent to Al Ram.\textsuperscript{263} Thus, it became an essentially lawless zone: a destination for criminals and peripheral communities seeking to escape Palestinian jurisdiction (and therefore the law) in Area A.\textsuperscript{265} The construction of the separation barrier adds another layer of complexity to the lawlessness and isolation of Al Ram.\textsuperscript{266} Infrastructure services, sewage, water, electricity, education, health, and landownership rights have been severely compromised, if available at all, due to the conflicted jurisdictions of the multiple regulatory frameworks.\textsuperscript{267}

Despite falling within two disparate zones\textsuperscript{268} and not retained under the control of the Samaritans or Palestinians, Mount Gerizim is better serviced than most if not all similar sites in the territories.\textsuperscript{269} Samaritans on Mount Gerizim essentially live in a gated


\textsuperscript{262} Id.


\textsuperscript{264} For an in-depth discussion of the consequences of the Oslo fragmentation of the Palestinian lands on creating a state of lawlessness in the West Bank, Graff, supra note 91, at 14.

\textsuperscript{265} Kuttab, supra note 263; The Separation Barrier Surrounding A-Ram, B’TSELEM (Jan. 1, 2016), https://www.btselem.org/separation_barrier/a-ram.

\textsuperscript{266} Kuttab, supra note 263.

\textsuperscript{267} EYE ON PALESTINE, supra note 261.

\textsuperscript{268} See Ahmad Melhem, \textit{How One of the Smallest Religious Communities in the World is Struggling to Sustain its Community}, AL-MONITOR (Sept. 17, 2015), https://www.al-monitor.com/originals/2015/09/samaritans-smallest-community-west-bank-mount-gerizim.html#ixzz6WG14p2h5 (reflecting the small number of total Samaritans split between Gerizim and Holon).

\textsuperscript{269} The State of Israel retains an active control over Mount Gerizim and the archeological site. See Chaim Levinson, \textit{Ancient Site Near Nablus ‘Too Problematic’ to Open}, HAARETZ (July 2, 2010), https://www.haaretz.com/1.5142887.
compound,\textsuperscript{270} in stark contrast to members of the Al Ram community and others within the same zoning.\textsuperscript{271} The community is adjacent to a major checkpoint with joint PA-Israeli armed patrol forces, who are deployed to ensure Samaritans’ security and comfort as Israeli citizens.\textsuperscript{272} They enjoy regular sanitation services, an ordered system of urban planning, well-serviced streets, and the adequate provision of infrastructure services and development.\textsuperscript{273} The PA does not uniformly and consistently provide all Palestinians in Area C with education, power, sanitation, and sewage services,\textsuperscript{274} yet those services are adequately available for Samaritans.\textsuperscript{275} This in part stems probably from their political significance and subsequent concerns for their protection.\textsuperscript{276} Despite nearly total Israeli control of Mount Gerizim,\textsuperscript{277} in a rare and instructive gesture of united interests, PA and Israel forces patrol the mountain together in service of the Samaritan community.\textsuperscript{278}

A recent Samaritan report claims that, fearing the spread of the virus COVID-19 in their extremely small and relatively vulnerable community, its members drew on their advantageous circumstances to convince the Israeli Civil Administration to restrict access to the

\begin{footnotesize}
\begin{itemize}
\item[\textsuperscript{270}] Al-Mashakil alati tuajih al-Taayifat al-Saamiria [The problems facing the Samaritan Community],  PALESTINE NEWS AGENCY, https://info.wafa.ps/ar_page.aspx?id=4059.
\item[\textsuperscript{271}] Author’s description based on in person visits to Mount Gerizim between 2016 and 2019.
\item[\textsuperscript{272}] Author’s description based on multiple first-hand visits to the occupied Palestinian territories, including the city of Nablus and Mount Gerizim for the purposes of the research between 2016 and 2019. See also Ishaq, supra note 105; AYYASH, supra note 32, at 124.
\item[\textsuperscript{273}] Ishaq, supra note 105.
\item[\textsuperscript{274}] See ORHAN NIKSIC ET AL., AREA C AND THE FUTURE OF THE PALESTINIAN ECONOMY, 19 (World Bank, 2014) (illustrating the lack of basic services for those in Area C).
\item[\textsuperscript{275}] PALESTINE NEWS AGENCY, supra note 270.
\item[\textsuperscript{277}] Id.
\item[\textsuperscript{278}] Interview with Majdi Shar’ab and Mohammad Mashni, Prosecutors, Nablus Prosecution Office, in Nablus (Aug. 1, 2019).
\end{itemize}
\end{footnotesize}
mountain, by retaining a checkpoint that denies non-Samaritan Palestinians from entering that part of Palestinian territory. Likely aware of their leverage via the Right of Return and their habitation in Area C, the Samaritans did not communicate their concerns or intentions to the PA or the Palestinian police. Instead, they sought the protection of the Israeli occupying powers to deny their fellow Palestinians from accessing Palestinian land to protect their own community’s health.

C. LEGAL PRACTICE IN PALESTINE: SAMARITANS AS ISRAELI CITIZENS

Another instance of positive discrimination is the admittance of Samaritans to the Palestinian Bar Association (PBA). The PBA is the sole body regulating the legal profession in Palestine, and its founding law clearly allows only Palestinians or Arab citizens who reside permanently in Palestine to become members of the PBA and register to officially practice before the Palestinian jurisdictions. The organization explicitly imposes a prohibition on Israeli citizens or those admitted before the Israeli bar from joining the Palestinian legal profession as part of the Arab Union of Lawyers Boycott movement to pressure Israel for human rights abuses.

Nevertheless, an exception was made in 2011 for two Samaritan lawyers who had recently graduated from the Al Najah Palestinian National University to join the bar association despite holding dual citizenship. The Chairman of the Bar at the time, Ali Muhanna,

280. Id.
281. Id.
283. See SAWASYA JOINT PROGRAMME, LEGAL TRAINING IN PALESTINE AND THE ROLE OF THE PALESTINIAN JUDICIAL INSTITUTE 9 (May, 2018) (listing the qualification for lawyers of the Palestinian Bar Association).
284. The PBA in line with the regulations of the Arab Lawyers Union boycotts any interactions or relations with the Israeli “Zionist establishment.” THE ARAB LAWYERS UNION, al-Qanun al’Asasy [The Basic Law], arts. 3b, 4, 8, 2–3, https://www.alu1944.com/Sections/Details?id=mI7WW1f5Yf0= (last visited Mar. 19, 2022).
285. Interview with Ali Muhanna, former Chairman of the Palestinian Bar
based his unprecedented decision on the claim that the Samaritans’ Israeli citizenship was merely opportunistic:

Our brothers and sisters from the Samaritan community are a key component of the Palestinian society. They have lived for centuries in Nablus and have always been part of the Palestinian people. They enjoy Palestinian citizenship as any other Palestinian, and their access to Israeli citizenship was only a programmatic arrangement to facilitate their connectivity to their community in Holon.286

Following the Chairman’s decision, the two Samaritans took the oath and were admitted to practice law in Palestine.287 One of them, Radwan Al Kahen, who decided to change his name to the Hebraized Tomer Cohen; he hangs a banner of his law practice using his Hebrew name in one of the main streets in the West Bank city of Ramallah.288 Tomer claims to have chosen to use his Hebrew name publicly in a Palestinian city as a way of marketing his capabilities to resolve Palestinians disputes with Israeli legal jurisdictions.289 And instead of being vilified for his Hebrew name, his clients see it as an advantage, he claims.290

Clients have more trust in my effectiveness in resolving their legal issues before the Israeli system, thanks to my Hebrew name. Do you think an Israeli judge would treat a lawyer named Mohammad the same way as a Cohen, Levi or Ziv? No Palestinian, Israeli, or Druze of Palestinian descent can have the dual access to both legal and judicial systems as me. Currently, I work exclusively as a middleman: I resolve tax, customs and import issues for Palestinian businessmen with the Israeli administration. My business is booming; I have clients from all over the West Bank, they look for me because of my Hebrew name.291

In summary, dual-citizen Samaritans like Tomer gain access to the

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286. Id.
288. As observed by the author during field visit to Ramallah, in the occupied Palestinian territory in 2018.
290. Id.
291. Id.
Palestinian legal profession. Their dual legal status and the plurality of applicable laws uniquely position them to practice law in the West Bank, East Jerusalem, and inside Israel—access otherwise unattainable for both Palestinians and Israelis.

D. EVASION OF LEGAL CONSEQUENCES: TWO CASE STUDIES

The first case study examining the usage of the Samaritans of their multiple identities to their advantage depending on the context of different jurisdictions is based on a case before the Palestinian Anti-Corruption Court. In 2008, the Palestinian Anti-Corruption Court indicted Ezzat Al Samri, deputy director of the Department of Transportation, for requesting and receiving bribes from individuals and corporations to forge vehicle-licensing transactions. Al Samri was accused of professional misconduct, abuse of public office, and deliberate complacency in performing public duties. In 2012, he was sentenced to ten years imprisonment with hard labor for intentional forgery of official documents, ten years imprisonment with hard labor for use of forged documents, three years and 200 Jordanian dinars for requesting and accepting bribes, and three months imprisonment for deliberate complacency in performing public duties. In its final decision, the appeal circuit decided to inflict its harshest punishment in absentia, as the defendant was a fugitive from justice.

The defendant, Al Samri, happens to be a Samaritan who holds both Palestinian and Israeli citizenship. Although the Anti-Corruption Court has jurisdiction over public servants and Palestinian citizens, its sentencing was rendered in absentia because Al Samri fled to Mount Gerizim, which is considered part of Area C and thus unreachable by PA law enforcement or the Palestinian

292. muhkema hara’m al-fasaad [Anti-Corruption Court], The Public Order v. Izzat Ismael Sarawi Al Samri, 2008 (Palestine).
293. Id.
294. Id.
295. Id.
296. Id.
297. Id.
298. Shar’ab Interview, supra note 278.
Despite the defendant’s location being well-identified and close to Area A, the PA has not been able to prosecute him. Al Samri explained his good luck in an interview, stating that Palestinian police are not allowed to enter the Mount Gerizim area without prior coordination with Israeli authorities:

As an Israeli, I am allowed to drive the direct road that connects Mount Gerizim to the Israeli settlements and the highway to the main cities, and in 40 minutes I’m in Tel Aviv. Those roads are inaccessible to Palestinians. From my house in Nablus to my work in Tel Aviv, Palestinians cannot have any access to me.

By working in Israel and using settler roads outside the jurisdiction of the PA, Samaritans like Al Samri manipulate a fractured system to evade the PA in ways that other minorities cannot. This unique legal positionality has been castigated by Dr. Ahmad Barak, the head of the Anti-Corruption Court, who, like previously quoted government figures, blames institutional failures for the Samaritans’ evasion of justice. Barak notes that the fragmentation of the West Bank makes it difficult to regularly administer indictments and sentencing for subjects who have Israeli citizenship and are outside the scope of Palestinian law in addition to being able to move in between various jurisdictions:

Unfortunately, we have a serious issue in executing court decisions. We simply cannot prosecute Israeli citizens based on the Oslo Accords. In the case of the Samaritan, it was possible, because he holds Palestinian citizenship. However, we are unable to bring him to justice even though we know his exact address. Based on the Oslo Accords, our law enforcement personnel are forbidden to access Area C territories without security coordination with the Israeli authorities. The Israelis in the vast majority of the cases that concern Palestinian crimes and Palestinian criminals are reluctant to help. This is a well-known fact and there is no

299. Id.
300. Id.
302. See Interview with Dr. Ahmad Barak, former Att’y. Gen. and the Head of the Palestinian Anti-Corruption Comm’n., in Ramallah (Oct. 5, 2019) (stating that divided territories limit authorities’ ability to bring people to justice, particularly when they flee to another area to avoid prosecution, because of jurisdictional issues).
point in hiding it.\textsuperscript{303}

Samaritan public servants not only benefit from the Palestinian employment system, but they are also able to exploit loopholes and evade local laws as a further result of their dual status and the general disorder in the West Bank.\textsuperscript{304}

The second case study showing how Samaritans have been able to exploit the structural weakness of Palestinian criminal prosecution is that of \textit{Public Prosecutor v. Najeh Adel Ghassal Al Samri and Ahmad Mohammad Jaber Ji’an}.\textsuperscript{305} In April 2005, Najeh Adel Ghassal Al Samri, a Samaritan from Nablus, was caught with his friend Ahmad Mohammad Jaber Ji’an by the Palestinian Customs Police, smuggling undeclared valuable goods into the Palestinian territories.\textsuperscript{306} While entering the West Bank city of Qalqilya in an Israeli plated vehicle, Al Samiri crossed the city’s Israeli-controlled checkpoint with his friend following suit in a separate car. When the Palestinian Customs Police stopped and inspected the car at the city’s entrance, they found in Al Samiri’s possession twenty-eight parcels of illegally smuggled commercial goods, which they used to indict him on related charges in 2006.\textsuperscript{307}

From his indictment until 2012, Al Samiri was a fugitive from justice who was able to successfully avoid Areas A and B by retaining his domicile in Mount Gerizim,\textsuperscript{308} while continuing his activities inside Israel. Aware of the vulnerabilities of the system, Al Samri eventually argued in court that too much time had passed since the court’s last legal proceeding in 2006 for any legal action to be initiated on his criminal offence. Invoking the statute of limitations, the court dismissed the case.\textsuperscript{309}

\begin{itemize}
  \item \textsuperscript{303} Id.
  \item \textsuperscript{304} Id.
  \item \textsuperscript{305} Public Order v. Najeh Adel Ghassal Al Samri and Ahmad Mohammad Jaber Ji’an (2006).
  \item \textsuperscript{306} Id.
  \item \textsuperscript{307} Id.
  \item \textsuperscript{308} See Shar’ab Interview, supra note 278 (noting that Mount Gerizim is in Area C and therefore unreachable by the Palestinian law enforcement and judiciary).
  \item \textsuperscript{309} See Interview with Dr. Ahmad Barak, supra note 302 (lamenting that they were unable to bring Al Samiri to justice despite knowing his exact address).
\end{itemize}
The public prosecutor of Nablus, Majdi Shar’ab, and the head of the Nablus police, Mohammad Mashni, explained that the court had not taken previous action between 2006 and 2012 because of the complexity of executing court orders against Samaritans.310 The two figures offer a familiar exposition of the advantages offered to the Samaritans by their unique status, noting that even though they are Palestinian citizens residing in the Palestinian Territories, Samaritans can appear before the Palestinian courts only voluntarily and only with their full consent because they are Israeli citizens.311 According to Mashni, when a case involves an Israeli citizen, the Israeli army and police interfere to prevent the Palestinian police from arresting perpetrators or proceeding with an investigation.312 In such cases, the Israeli police interfere to protect Samaritan defendants because they are Israeli citizens:313

We cannot prosecute Samaritans, or any other Israeli citizen. We live under occupation and our situation is very complicated. If we try to prosecute any Israeli citizen, we take a huge risk—the Israeli army would invade the city to interfere, and this would cause tension and possibly provoke clashes between the Palestinians and the army. Sometimes we have to make compromises and close our eyes on certain violations to protect the public good. We do not want to lose more Palestinian souls in clashes with the Israeli Forces.314

As Al Samri’s example shows, the efforts of Palestinian police and public prosecution to enforce legal order and deliver justice are constantly challenged by the complex legal terrain in which they are forced to operate. This last case in particular exemplifies how, thanks to their access to the Israeli Civil Administration and their protection as Israeli citizens, a handful of Samaritans are uniquely able to manipulate the inefficient Palestinian criminal justice system to their

310. See Shar’ab Interview, supra note 278 (reflecting that the Palestinian police and prosecution cannot go to Zones A, B, and C without prior coordination with the Israeli Civil Administration).
311. Id.
312. See id. (highlighting that when Samaritans are stopped or arrested by Palestinian police, they often call the Israeli Civil Administration who then call the Coordination Office to complain. This results in the Israeli Army asking the Palestinian authorities to release the individual).
313. Id.
314. Id.
advantage. The presence of such cases further demonstrates the extent to which certain members of the Samaritan community opportunistically disregard their affiliation with Palestinian social fabric and can bypass its laws depending on the circumstance. Such behavior, although not reflective of the entire Samaritan population, would suffice to argue that it has served to further fissure their ties from the Palestinian collective and reinforce their connection with the Israeli State. The following section will show how the Samaritans navigate the courts to their advantage on a smaller level, through family courts, whose proliferation was explained earlier.

E. SAMARITANS AND THE SHARIA LEGAL SYSTEM

Religious courts are used extensively by various minority communities throughout the oPt, though the Muslim courts are of particular relevance for the present discussion of Samaritan exceptionalism. This is because the Samaritans turn to the Sharia court to resolve issues of child custody, disability guardianship, and the division of inheritance, while still using the broader non-religious legal and juridical systems of the oPt and Israel for other purposes. Even though they are neither Muslims nor they have a mandatory legal obligation to do so, Samaritans have approached the Sharia court in Nablus to seek particular advantage in the division of movable and immovable property in accordance to Islamic laws of distribution.

315. See Zeina Ghandour, Religious Law in a Secular State: The Jurisdiction of the Shari’a courts of Palestine and Israel, 5 ARAB LAW Q. 25, 28 (Feb., 1990) (noting the expansive jurisdiction of Shari’a courts for matters of personal status, including the establishment of the courts by the State which pays the courts’ expenses).

316. During which, Judge Hroub provided the author with copies of court rulings on custody, mental incapacitation and distribution of inheritance involving Samaritan parties. Also, in a letter from the Chief of the Samaritan community, Cohen Abdallah Wassaf, the Samaritan Priest confirmed the community’s full adherence to the decisions of the Sharia courts and the principals of Islam in all matters regulating inheritance. Letter from Cohen Abdallah Wassaf, Chief of the Samaritan Cmty., to Dr. Mahmoud Habbash, Sharia Chief Just., and the Head of the Supreme Jud. Couns. (Nov. 18, 2020) (on file with the author).

317. See Interview with Judge Abdallah Hroub, the Head of Shari’a Ct. in Nablus, in Nablus (Aug. 6, 2019) [hereinafter Interview with Hroub] (explaining that Samaritans primarily look to Shari’a courts for issues relating to money and
Abdallah Hroub, explained that the Samaritans’ use of the *Sharia* law courts is long-standing and in full compliance with the law.\(^{318}\)

Samaritans are Palestinians, they are legal subjects before Palestinian laws. They are entitled to protection and equal treatment before the applicable laws in Palestine as any other members of Palestinian society. Islam is the official religion of Palestine, if a recognized religious minority opts to utilize the *Sharia* law, we accommodate their choice. Samaritans have had access to the Sharia court of Nablus since the Ottoman period, it is nothing new.\(^ {319}\)

The legal rationale used by Judge Hroub clearly shows how Samaritans use their ambivalent identity to their benefit within the context of a failing pluralistic legal system. It also highlights the exceptionalism of such benefits being given to minority communities. Neither Hroub nor his broader network of legal representatives mention the fact that unrecognized Muslim communities, such as Ahmadis, cannot use the Muslim courts in the way Samaritans can.\(^ {320}\) Instead, such minorities are treated as apostates (*murtadd*)\(^ {321}\) who must convert and repent before even having access to courtrooms abiding by *Sharia* law.\(^ {322}\)

The Samaritans also exploit the application of law by religious local courts to selectively disadvantage women. Samaritan journalist Badawiyya Hosny Assamri notes that while female Samaritans like herself are well-treated within their community, it is not uncommon for families to access *Sharia* courts to lower the amount of money a

\(^{318}\) Christians also use the sharia courts for certain inheritance matters, such as issuing an inheritance deed. See Baseline Study: Women Inheritance Rights in Palestine, Wil’AM: THE PALESTINIAN CONFLICT TRANSFORMATION CTR. (Jan. 18, 2013), https://www.alaslah.org/baseline-study-women-inheritance-rights-in-palestine/ (noting that Christians also use the Shari’a courts for matters such as inheritance).

\(^{319}\) Interview with Hroub, supra note 317.

\(^{320}\) See id. (excluding mention of those that cannot access the court).

\(^{321}\) The act of secession from the Muslim community by abandoning the religion or converting to another religion. Niaz A. Shah, Freedom of Religion: Koranic and Human Rights Perspectives, 6 ASIA-PACIFIC J. ON HUM. RTS. & LAW 69, 75 (2005).

\(^{322}\) See, e.g., Nablus Sharia Court Decision No. 228 of 2010 (June 6. 2010).
woman may otherwise inherit, despite the lack of justification for such practices in the Samaritan faith. According to some schools of Islamic law, women are entitled only to half the share of inheritance allotted to men, as Assamri explains: “Generally, women are not entitled to equal shares, and internally it’s our tradition that women do not inherit immovable property. They are normally awarded from immediate male family members an amount of money, as a gift.”

That the Samaritans are able to use the Islamic courts to their advantage, despite not practicing Islam or having any outward familiarity with its complex legal system, illustrates the scope of the group’s leverage over local law. The following section will look at the way in which this leverage is exercised outside the context of familial matters and in broader socio-economic scenarios.

F. ECONOMIC PRIVILEGE AND SOCIAL DUMPING: SAMARITANS, ISRAEL AND THE PA

Alongside their various legal advantages, Samaritans have managed to gain socioeconomic benefits offered by both Israel and the Palestinian Authority. For instance, many Samaritans in Palestine are civil servants. If they want to retire, they ask for their benefits under the Palestinian pension scheme, which includes retirement lifetime allowance, financial plans, health care, and social security benefits. If that same Samaritan, who is also an Israeli ID holder, wants other social benefits like social security, child support allowance, or access to a more advanced health care system than the Palestinian system, he or she may then obtain those services in Israel.

323. See Interview with Badwiyya Hosny Assamri, Samaritan journalist for Palestinian News and Press Agency (Oct. 4, 2019) (“Generally, women are not entitled to equal shares, and internally it’s our tradition that women do not inherit immovable property. They are normally awarded from immediate male family members an amount of money, as a gift.”).
324. Id.
325. AYYASH, supra note 32 at 125.
326. Hamed, supra note 149.
327. See Interview with Aziz, supra note 148 (noting the major benefits of Israeli citizenship because of access to the best medical care system, decent retirement programming, and freedom of movement).
328. Id.
With regard to commerce, some Samaritans have profited from lower tax and fiscal regulations in Palestine, while also taking advantage of Israeli’s strong marketplace by producing their goods in Palestine and selling them in Israel.\footnote{See id. (providing an example of different earned income for a similar tech-related job in Palestine versus Israel; the difference is about 1900 USD which provides a significantly different quality of life).} A high-profile instance is when a Palestinian Samaritan businessman Yacoub Cohen, who built a tahini factory on Mount Gerizim and, after having his products certified as Kosher, sold them exclusively outside the Palestinian market, targeting instead the Israeli and the international markets.\footnote{Interview with Yacoub Cohen, Head of the Samaritan Legend Association and CEO of Har Bracha Tahini Factory, in Nablus (Oct. 7, 2019) [hereinafter Interview with Cohen] (explaining, as well, that obtaining a Kosher label requires Jewish authorities to monitor and have regular examinations of the production process to ensure compliance with the Jewish Halakha).} Cohen’s “The Samaritans’ Tahini” is promoted as an Israeli product\footnote{See HAR BRACHATAHINI, https://www.harbracha-tahini.com (last visited Mar. 22, 2022) (marketing the Tahini as from “the heart of the Holy Land Mount Gerizim”).} while being a Palestinian law-based production. Despite being labeled as kosher, the factory is registered as a Palestinian company and employs Palestinian workers, who are paid according to Palestinian labor standards.\footnote{Interview with Cohen, supra note 330.}

Because the factory is located in the Israeli-administered oPt of Area C, the Kashrut department and its monitors have rare unhindered access to it.\footnote{See, e.g., Eliyahu Kamisher & Adam Rasgon, Common Ground: Palestinian Tehina Flows from Nablus to Tel Aviv, JERUSALEM POST (June 25, 2017), https://www.jpost.com/opinion/common-ground-palestinian-tehina-flows-from-nablus-to-tel-aviv-497693 (demonstrating the converse for factories in Area A which are monitored by a rabbi through video cameras because the IDF forbids Jewish Israelis from entering that area).} To ensure the continuation of the “kosher” certification, the factory owners decided to hire one Kashrut employee and pay the statutory fees.\footnote{Id.} As they were allowed to enter the Israeli market thanks to their owner’s dual citizenship and reach a niche Jewish market thanks to this certification, the owners have been able to increase their profits based on cheaper labor costs in the
West Bank and larger consumer buying power in Israel.\footnote{335.

Several non-Samaritan Palestinian businesses have tried to emulate this model with less success.\footnote{336.}

For example, Al Karawan Tahini factory, an establishment of tahini makers in Palestine, has its factory in the outskirts of Nablus, in Area A.\footnote{337.} Contrary to Area C, this territory falls under the administrative authority of the Palestinian government and is theoretically inaccessible to the Kashrut supervisor.\footnote{338.}

After the \textit{Intifada}, the company lost their previously held Kosher label and only recently regained it under strict conditions.\footnote{339.} Al Karawan factory’s production is monitored through cameras in the facility by a rabbi.\footnote{340.} In yet other instances such as that of Abu Ayesh Tahini, the oldest Nablus producer whose factory is also located in Area A, special permits are delivered by the Israeli Defense Forces to allow rabbi’s access to factory grounds for on-site monitoring.\footnote{341.} In the Abu Ayesh case, as in many others, the monitoring rabbi declined to renew the Kosher label on the grounds of “lack of access.”\footnote{342.} According to Abu Ayesh’s marketer, though, the rabbi’s decision was a political one, given the relative paucity of such decisions for near identical factories run by Samaritan

\footnote{335. When interviewed about the way he manages his tax books, imports and exports, the owner responded: “You ask too many questions, this is the secret of our profession, but rest reassured, we have everything under control and well taken care of.” Interview with Cohen, supra note 330.

336. See Kamisher & Rasgon, supra note 333 (noting that for the average Israeli family a kosher label matters more than superior quality of product; therefore, without an “elusive kosher certification,” producers fail to reach a majority of Israeli consumers); see also Kobi Nahshoni, \textit{Nablus Tahini with Kosher Seal}, \textsc{Ynetnews} (Jan. 19, 2011), https://www.ynetnews.com/articles/0,7340,L-4008978,00.html (discussing the unusual request for a Palestinian business to receive a kosher seal given the complexity of the matter); Ronit Veret, \textit{Pleasure Hunting: Secrets, Past & Present}, \textsc{Haaretz} (Jan. 28, 2010), https://www.haaretz.com/food/1.5091407 (noting how tahina from dozens of tiny factories in Nablus have been smuggled into Israeli restaurant kitchens); Gideon Levy, \textit{Twilight Zone/ The Tahini Trail}, \textsc{Haaretz} (Nov. 22, 2007), https://www.haaretz.com/1.4958855 (stating that Dove Tahini from Nablus is one of the last Palestinian products sold in Israel).

337. Kamisher & Rasgon, supra note 333.

338. Id.

339. Id.

340. Id.

341. Id.

342. Id.
Palestinians.\textsuperscript{343}

Juxtaposing the Nablus Samaritans’ experience with that of other Palestinians helps shed light on the structural privileges enjoyed by the former and lack for the latter, as a result of their respective identities within the legal system. Legal maneuvering by the Samaritans of the type seen in these examples has nourished a type of group autonomy which emboldens its members to selectively adhere to the law without pushback from those administering it.

V. CONCLUSION

“We are a piece of antiquity and a curious site for preservation, we are unique. Palestinians, Israeli and the entire world should strive to protect us. We are a World Heritage that should be preserved.”\textsuperscript{344}

A unique minority in the midst of a singularly complex web of legal regimes, the Samaritans powerfully testify to the limits of law and its susceptibility towards biased treatment, with the majority disempowered to the advantage of a privileged few. This paper has contextualized the lack of rights for average Palestinians within the context of the Samaritan community’s tumultuous history and present struggle for autonomy. The lack of minority rights in the oPt must not be understood only in the realm of ever-increasing Israeli human rights violations. Rather, the inability of the PA to safeguard Palestinian citizen rights in the West Bank, Gaza Strip, and East Jerusalem and the rise of ethno-religious fundamentalism are serious factors that contribute to compromising their fundamental human rights. This paper has suggested that the combination of these unequal power differentials and contrasting values have led to the vast majority of Palestinians not having a right to self-determination at the most basic level. The ‘neo-colonial’ pluralistic system that Palestine inherited after various occupations is still maintained by the PA to serve their own interests while saving face and professing support for liberal democracy. The inherent failures of such extreme

\textsuperscript{343} See id. (explaining that the rabbi refused to renew the certification despite the obtainment of a special permit from the IDF for entry into Nablus).

\textsuperscript{344} Interview with Assamri, \textit{supra} note 147.
pluralism, corruption, geo-political strife, and generally compromised national agency all contribute to a larger and more critical failure that this paper has aimed to highlight: the inability of human rights law to protect the very minority populations which it was designed to defend.

The failures of this system are best highlighted by the exception of the Samaritan minority group, which can be instructive for future reform to the extent possible within such enormous constraints. This paper has ultimately argued that their exceptional status in the eyes of the PA, as well as to some extent in that of the Israeli governance, is the product of the Samaritans’ decades-long efforts to instrumentalize their hybrid ethno-religious identity for their own benefit. Samaritan political organizing at the domestic, regional, and international levels allowed members of the community to use their unique identities to affirm the humanitarian and socio-political rights which have been denied to minorities in the oPt and throughout the region. Whether in Nablus or Holon, the Samaritans constitute a united bloc with hard-earned uncompromised citizenry rights in both Israel and a potential Palestinian State. As a result of the communities’ secured position in the two jurisdictions, both the occupiers and the occupied continue to cede to Samaritans’ demands, at the local level and more broadly through their success at achieving a form of ‘diplomatic immunity’ in Oslo. Perhaps most startlingly, however, this paper has demonstrated that the Samaritans effectively secured the insecurities of a legal and juridical system to establish an essential and increasingly rare right: that of existing as a people untethered to national boundaries or their civic and legal codes.

Therefore, the Samaritan case calls for an examination of the successes and failures of international law with respect to marginalized communities, while also being instructive for the positive development of Palestinian pluralism at the local level. Despite their various constraints, the PA has the same opportunity that all political groups in these contexts do: to use a pluralistic legal framework to the benefit of its entire citizenry and extend some of

345. See Kaufman, supra note 245, at 16–18 (touching on the Samaritans’ independence campaign as a community to ensure its special status with Israel, the Palestinian Authority, and the international community).
the Samaritans’ freedoms to other minority groups. Doing so would be a step in the right direction, towards a governing system that promotes justice and egalitarianism in virtue of its pluralism rather than despite it.

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