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Islamic Law, Tribal Customary Law and *Waqf*

Studies in the Legal History of the Modern Middle East and North Africa

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CHAPTER 19

The Heritage of Ottoman Rule in the Israeli Legal System: The Concept of *Umma* and *Millet*

1 Introduction

This essay¹ presents an anomaly in the Israeli legal system created by changing political circumstances. At the core of the anomaly are the concepts *umma*, the Muslim political entity, and *millet*, a communal framework regulating the status and organization of the tolerated religious communities (Christians and Jews) in the Ottoman Empire. Being a residue of the reality of a sovereign Islamic state, these concepts, once dissociated by historical circumstances from the legal and cultural framework in which they arose, required adjustment to the alien juridical environment of a non-Muslim country with its Western political and socio-cultural orientation. Oddly, the substance (though not the terminology) of these concepts, with some indispensable changes, have survived into the present during a period of almost ninety years after the collapse of the Ottoman Empire. The issue under study represents a highly instructive example of what sociologists and anthropologists designate as "legal pluralism"² – in this specific case – transmitted from the multi-religious and communal structure characterizing the Ottoman Empire.

In the Qur'an, the term *umma* signifies a religious community corresponding to that of *milla*. Beginning with the chapters, or suras, of the Medinan period, the term acquired the narrower connotation of an autonomous Muslim

¹ This essay is based on a lecture held at Yad Izhak Ben-Zvi, Jerusalem, during a conference on "The Ottomans in Palestine and the Middle East" organized under the auspices of the Hebrew University, Ben-Gurion University, Haifa University, and Tel Aviv University on June 8–9, 2005 on the occasion of Prof. Amnon Cohen's retirement from the Hebrew University. Prof. Ruth Lapidot (Faculty of Law, Hebrew University), Prof. Assaf Likhovski (Faculty of Law, Tel Aviv University), and Dr. Ido Shahar (Department of Sociology and Anthropology, Tel Aviv University) read an earlier draft of this essay and offered useful comments for which I am most grateful.

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² Dupret, Berger and al-Zwaini, *Legal Pluralism in the Arab World*.

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