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- 1 This book is a doctoral dissertation submitted to the Faculty of Law of the University of Trier (Germany) in summer 2004. It aims at analysing and presenting the relationship between the state and the various religious communities in Israel from a legal perspective. Of special interest here is the question whether the Jewish community is privileged by the Jewish state or not, i.e. whether Judaism is the religion of the state or not. In a very detailed and systematic way, the author addresses these issues by taking into account the historic basis and conditions of the state-religion-relationship in Palestine in Ottoman times (before 1917), during the British mandate over Palestine (1917-1948), and after the establishment of the state of Israel (until January 2004).
- 2 According to Angelika Günzel, the relationship between state and religion becomes most visible in the legal status of religious communities. Therefore, she examines these statuses and thus the granting of collective religious freedom in Israel. The religious

freedom of individuals, however, is not subject of the book. In the first chapter (pp. 5-55), the historic development of the state-religion-relationship is presented, starting with the Ottoman period and its *millet*-system and followed by the British mandate and the situation after the foundation of the state of Israel. The reason for that is the continuous existence of the historic legal substance of the pre-Israel periods in the legal system of Israel. Like Great Britain, Israel has no written constitution. Instead, the Knesset, the parliament, has full legislative power, bound and limited only by the Basic Law, fundamental rights and by some inherited legal texts. The British "Palestine Order in Council" functions here as a link between the Ottoman legal order, incorporated by it, and the Israeli legal system, forced by the specific circumstances of its emergence to postulate a legal continuity with the Ottoman system and the mandate period. Due to the high number of religious communities in Israel, the legal situation of state-religion-relationships is quite complex. So, the author decided rightly to focus but on a selection of them, namely the Rabbinic Judaism, Islam, the various Catholic churches—they have a special position due to the "Fundamental Agreement Between the Holy See and the state of Israel" from 1993, with a further agreement from 1997—, the Orthodox churches, the Protestant churches, the Druzes, and the Baha'is.

- 3 After a short demographic overview, the author addresses in chapter two (pp. 57-120) in a more general, but nevertheless very detailed way the status and organisation of religious communities. There are three categories: religious communities not recognised by the state, religious communities recognised by the state, and religions recognised by the state. The nonrecognised religious communities are a heterogeneous group with no clear profile, comprising various Christian churches (like the Copts, the Anglicans, the Baptists, etc.), but also Karaite Jews (a very small Jewish community split off from Rabbinic Judaism in the 8th century AD. Concerning religious communities recognised by the state (in Hebrew *eda datit*), the first definition is found in paragraph 2 of the British Succession Ordinance of 1923, taken up by article 2 of the Palestine Order of Council (POC) in 1939. Here, an association of individuals is understood as a recognised religious community if it is included in a list of religious communities attached to the POC, or if the association is proclaimed as a recognised religious community—under the British mandate by the High Commissioner, today by the Israeli government. Conditions for the recognition are the religious character, i.e. the religiosity of the community, the purpose of the association to perform collective religious rituals and prayers, preferably in form of a true legal community with institutional structures, and the possibility to distinguish between this association and already recognised ones. The number of membership is not relevant. However, the government has a certain degree of freedom in recognising or not recognising a religious community. The third status is that of a recognised religion. Islam, Rabbinic Judaism, and the Druze community belong to this category, being not recognised as religious communities in the sense of article 2 of the POC for different reasons, and having all a special status which becomes e.g. visible in the mentioning of but these three in some laws. In Ottoman times, Islam has been the religion of state, but lost this status under the mandate. It is neither included in the list mentioned above (willingly for its special status) nor recognised by the High Commissioner or the Israeli government. Nevertheless, its *de facto* recognition is generally assumed and accepted. The Jewish community was included in the list of recognised religious communities, but lost this status according to the rulings of the Supreme Court of Israel, because the

Knesset Israel, the Rabbinic Jewish organisation recognised by the POC, ceased to exist... with the establishment of the state of Israel, and a new Jewish community has not been recognised by the state of Israel. The legal status of the Druze community seems unclear: some argue that it is not legally recognised due to the lack of a published ordinance by the government. Other see the recognition included either in the “Religious Communities (Organisation) (Druze Community) Regulations” from 1957 or in the “Druze Religious Courts Law” from 1962. Due to this uncertainty, the Druze community was additionally recognized by a government ordinance in May 1963 according to the regulations of article 2 of the POC. The main criterion for recognition of a religion as such, and not of the relevant religious community, is the competence of the related religious courts. If the recognition focuses on the religion, the jurisdiction of the religious courts stretches over all members of this religion. In case of recognition of a particular religious community, the jurisdiction of the religious courts is limited to the members of the community only. In the second part of this chapter, A. Günzel gives an overview over the legal positions of these various statuses of the non-recognised and recognised religious communities and religion, with the advantages and disadvantages of both. The third part of the second chapter addresses the jurisdiction of religious courts and their competences, also their concurrence with state courts in the domain of personal status. Concerning marriage and divorce, a prerogative of the religious courts exist. However, in cases of concurrence, most people prefer the secular state courts, which might recur to religious laws for the decisions. The Islamic Shari’a courts still have a special status. The religious courts are financed by the state, their judges installed by mixed commissions and controlled by the government.

- 4 In the third chapter (pp. 121-254) A. Günzel examines status and organisation of selected religious communities with a special focus on their legal relationship with the state. Quite often, the state comes very close to the religious communities, so that its religious neutrality becomes questionable. Especially the religious courts of the recognised religions Islam, Rabbinic Judaism, and the Druze community are working like state organs. It is worth noting that the Rabbinic courts are not privileged; the Shari’a courts, at the contrary, have more competences.
- 5 The book ends in chapter 4 (pp. 255-277) with an evaluation of the legal system in Israel with regard to religion. The differences between non-recognised and recognised religious communities are in theory far larger than de facto. Judaism is neither formally nor de facto the religion of the state of Israel. Principally, a strict separation exists between the state and the various religions and religious communities, even if the state cooperates with them. Here, we observe a system of parity in three degrees, i.e. non-recognised religious communities, recognised ones, and recognised religions.
- 6 The book is comprehensive, clearly structured (perhaps in too little steps), and very systematic. A. Günzel makes use of a solid and rich basis of legal documents (laws, ordinances, agreements, and court decisions), interviews and letters as well as literature in various languages, including Hebrew. Worth reading for everybody interested in the legal history and situation of Israel and Palestine and in the practical functioning of a pluralistic legal system.