Turkish society viewed the new marriage ceremony introduced along with the civil code as a secular alternative to the traditional marriage ceremony presided over by an imam. These traditional ceremonies, as discussed before, had a very religious air. Prayers were read, as were verses from the Qur'an, and the ceremony itself was generally conducted by an imam. Though there was never any religious requirement mandating that marriage ceremonies be conducted in this fashion, the form of the traditional marriage ceremonies was so deeply ingrained in the culture that the public viewed religion as an essential component of the ceremony. Since the new civil marriage ceremonies left no room for Religion, these ceremonies were widely viewed as illegitimate from a religious perspective. In fact, the new civil marriage ceremonies and civil marriage contracts met all the requirements laid out by Islam. But in this case popular sentiment, steeped deeply in tradition, won out over the facts.

After the fall of the Ottoman Empire the Turkish government worked to create a new type of citizen. The regime took it upon itself to decide what was best for people without bothering to involve the people themselves, or their opinions and needs, in the process. The people of Turkey were confronted with major top-down changes touching on every aspect of their social and religious lives, and the abolition of religious marriages and their replacement by new civil marriages were one facet of this broader process.

The tepid reception the new civil marriages met with among the Turkish people troubled lawmakers. In 1941, they commissioned a study to find a solution to the problem of peoples' reluctance to embrace the new civil marriages, and the results of this study were presented in a report.

12 M. Kemal Oguzman, *Medeni HukukDersleri,* 7th ed. (Istanbul: 1994.), p. 12-13.

See The Turkish Civil Code, (Article 134): "The marriage registry official is the mâyor of the relevant district

or a civil servant acting on his behalf In villages, this is the village headman"

65

JOURNAL OF ISL.\*'.\!C RESEARCH 2013

The number of the people who were getting married in traditional religious ceremonies continued grow in spite of the fact that these ceremonies were now illegal and punishable by law. The vast numbers of these illegal marriages forced the government to declare amnesty for these marriage offenders at least once a decade. And their numbers continued to grow. The government, howeve felt that it could not return to the older system of allowing imams the authority to preside over marriages, as this would in its eyes have violated the secularism of the Turkish state. The government's position seems rather inconsistent in light of the fact that imams in Turkey, just like local authorities who are allowed to perform marriages, work as government officials and receive their salaries from the state. In any case, the tension between the official illegality of religious marriages and their undiminished popularity continues to this day.

Contemporary Problems

Today, what is called "religious marriage" is something very different than the traditional form of marriage that existed during the Ottoman period. What was once nothing more than a "legitimate marriage contract" is now used by Turks to provide their marriages with a sort of"illegal legality." other words, the people still consider a religious wedding necessary for the institution of marriage but the illegality of said ceremony means that people must choose between embracing the secular wedding ceremony they see as religiously impermissible, and embracing the religious wedding ceremony the state has dubbed legally impermissible. This is a conundrum that confronts many people in Turkey, and the declarations of Muslim scholars on behalf of the validity of civil marriage has not changed the way the matter is popularly perceived.

Religious marriages in Turkey today are carried out for very different reasons than they traditional were in the Ottoman period, and they are indeed sometimes the subject of abuse. Religious marriages in Turkey today fall into four broad categories.

1. *Individuals who are married in a religious ceremony, without a civil marriage.* In

the years following the passage of the Civil Code many people distrusted civil marriage and prefer marriage by religious ceremony. Some of them, perhaps many years after their religious marriage, eventually also perform a civil rñarriage in order secure rights for their children or for other reasor

According to a study by the Hacettepe University Institute of Population Studies, 35% of marriage! prior to 1974 were religious marriages that were subsequently made official with a civil marriage. The study noted that the percentage of such marriages decreased gradually over the years to a Io of about 13% between 1999 and 2003.14

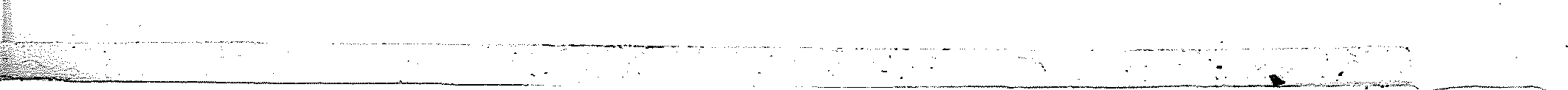
1. *Individuals who are married in both a religious and a civil ceremony:* Almost all couples in Turkey have both a civil marriage ceremony and a religious one shortly

afterwards. The reason for this is that if a religious marriage is performed before the civil

' 4 H. Yaprak Civelek and Ismet Koe, *”T"urkiye ’de Imam Nikahf* Nufusbilim Dergisi, Hacettepe Universitesi E- dergi, (ñlisan2007.) (<http://www.sdergi.hacettepe.edu.tr/ycik.pdf)>

15 Cin, *Islam ve Osmanh Hukuku’nda Evlenme,* p. 314.

JOURNAL OF ISLAMIC RESEARCH 2013



one then both the imam who performs the ceremony and the couple can be legally punished by imprisonment of two to six months.\*6 Performing the religious ceremony after the civil ceremony, however, is not a crime. For this reason, and to remove any doubts in peoples’ minds about the legitimacy of their marriage, couples will usually be married by an imam at a religious ceremony after their official, civil marriage is completed.

1. *People who use religious marriage to marry more than one woman:* In the Ottoman Empire men were permitted by Islamic Law to have up to four wives, provided that they met certain conditions. The Turkish Civil Code does not allow this today.17 When a man believes that he has a religious right that is being violated by the state to marry more than one woman, he can resort to religious marriage without a civil ceremony to marry more than one woman.
2. *People who wish to marry in secret:* Some people for one reason or another do not want get officially married, but at the same time they want to have an emotional relationship with someone else. These people sometimes try to achieve this aim by resorting to religious marriage in the presence of only a few close friends. In this way, they can live as a married couple without being officially registered as one. Such marriages are not very common in Turkey, but they are seen in big cities and especially among younger people. Muslim scholars do not approve of this kind of marriage.

The split in Turkey today between religious marriage and civil marriage is problematic on a number of levels. On the one hand denying legitimacy to religious marriages is the root of much needless legal trouble. Religious marriages, as they are not officially registered, are not subject to legal controls. If a couple married in a religious ceremony come into conflict with one another they cannot apply for,any legal remedy because they are not, from the perspective of the state, actually married. Additionally, since the state does not recognize their marriage as legal it cannot recognize their divorce. This can lead to many problems in the registration of their identities and those of their children. In Turkey today there are two totally different systems in place for marriage and divorce, and the Turkish people are left stuck in the middle.

#### \* ”‘\*”

1 The Turkish Penal Code, (Article 130.)

\*7 The Turkish Civil Code, (Article 145.)