

**ABSTRACT**  
**THE PATTERN OF MARRIAGES UNDER SPANISH LAW**

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Examining the pattern of marriages under Spanish Law requires study of the different kinds of marriages that are permitted in Spain in order to honour constitutional principles like religious freedom, equality, pluralism, etc. Although they have identical effects, there is a plurality of forms of marriage: Spaniards can enter a civil marriage in civil form, or a civil marriage in a religious form, or a canonical marriage in canonical form. However, this picture is shortly to be changed, with the addition of another type of form for celebrating marriage – the confessional marriage – which is being introduced by means of the Voluntary Jurisdiction Act, which is currently making its way through Parliament.

Civil marriage has had an autonomous existence in Spain since the Civil Marriage Act of 18<sup>th</sup> June 1870. However, for centuries prior to this, Spanish law had always recognised canonical marriage. Currently, this recognition for canonical marriage finds its legal basis in an international treaty: the Agreement on Legal Affairs between the Holy See and the Spanish State which dates from 3<sup>rd</sup> January 1979. This recognition entails that the Spanish State accepts canonical marriage and gives civil effects to these marriages from the date of the wedding. Canonical marriage itself is completely regulated by the Code of Canon Law, insofar as elements like authorisation, capacity requirements, impediments, celebration, annulment and dissolution, etc. are concerned.

In 1992, three Acts of 10<sup>th</sup> November reflected Cooperation Agreements signed by Spain with the Federation of Evangelical Religious Entities of Spain (Act 24 /1992), with the Federation in Israel Entities of Spain (Act 25 /1992) and the Islamic Commission of Spain (Act 26 /1992). Article seven of each Act deals with the law of marriage and together they establish the regulation of civil marriage according to the Evangelical, Jewish or Islamic rite, respectively.

The Bill on Voluntary Jurisdiction, which is currently under review by Parliament, having been proposed on 5<sup>th</sup> September 2014, provides that having regard to the existing religious pluralism in Spain, and considering that many religious associations have been officially recognised as being ‘deeply rooted’, the Civil Code should be amended so as to confer on these groups the right to administer confessional marriage, and that all civil and legal effects which have heretofore been granted to civil and canonical marriage should now also granted to these confessional marriages. As well as entailing numerous amendments to the Civil Code, the Bill on Voluntary Jurisdiction also requires radical changes to the Civil Registration Act.

For example, by means of the future Voluntary Jurisdiction Act, and in an amendment to the Civil Registration Act, it will be possible to be married in a Notary's office, or with the rite of other religions or churches, like Buddhism, Hinduism, Orthodox Church, Jehovah's Witnesses, the Church of Jesus Christ of Latter-day Saints or Mormons. Identical civil effects would be granted to all of those marriages. However, these legal changes do not mean that Spain now grants legal recognition to confessional or denominational marriage, but rather that civil marriage can be celebrated according to a whole host of newly-recognised religions. These marriages are entirely shaped by civil legislation.

The kernel of the question is the different situation and position of each religion or church, its own internal legal understanding of the institution of marriage, and the civil legal recognition of that internal legal code by the Spanish state. Perhaps it is sub-optimal to allow for a confessional or denominational marriage, on the basis merely of a declaration that the religion is deeply rooted, and in the absence of a formal matrimonial agreement between the religious organisation in question and the Spanish State.