



Prevention of Child Marriages Among Seasonal Migratory Agricultural Worker Families

Identification and Referral Guide



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DEVELOPMENT
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Prevention of Child Marriages Among Seasonal Migratory Agricultural Worker Families

Identification and Referral Guide

UÇURTMA

Birinci sınıftaymış
"Okuma-yazma öğreneceksin" dediniz
"Öğrendim. Okula gitmeyeceğim" diyor
Annesi ter içinde bir şeyler anlatıyor
Oğlan al yeşil mavi bir hayal topu
Bir gözü ipi kopmuş bir uçurtma
Bir gözü babanın bulanık suları
Bağlara doğru koşmaya başlıyor

Anne, kirpiklerinden yanan
Bir gaz lambası pencerenin önünde
Akşamın tanrısına
Yoksulluğun bütün dualarını okuyor

Şükrü Erbaş, 2022



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Preface

Development Workshop has carried out numerous activities in different regions of Turkey to investigate the working and living conditions of seasonal migratory agricultural worker families and their children, to improve these conditions and to combat the worst forms of child labor, especially in crop production processes.

During the field studies carried out by the Development Workshop within the scope of these activities, the issue of child marriage has always been on the agenda, field research data has confirmed this phenomenon, but there has been no research or intervention regarding identification, referral and service provision solely on this problem. It is also known that child marriage is a common problem among seasonal migratory agricultural worker families, the focus of Development Workshop's activities for many years.

With the financial support provided by the Embassy of Canada, for the first time in Turkey, a project that prioritizes child marriage among seasonal migratory agricultural workers and envisages development of rights-based service provision and community-based interventions for the prevention of child marriages among seasonal migratory agricultural worker families has been initiated. We would like to thank the Embassy of Canada for their contribution.

Within the scope of this project, two guides on identification and referral and rights-based service provision were developed for those working on the prevention of child marriages among seasonal migratory agricultural worker families.

We would like to thank the seasonal migratory agricultural worker families who shared their views on child marriages with us during the fieldwork and the representatives of the institutions that contributed to the development of the guides. We hope that the guides will contribute to the prevention of child marriages and we would like to confirm that we will continue to work for an environment where children can enjoy their rights to the fullest.

Development Workshop
December 2023, Ankara

Purpose of the Guide

The purpose of this guide is to provide a methodological tool for those working to combat child marriages, a commonly encountered problem among seasonal migratory agricultural workers.

“Seasonal migratory agricultural labour” refers to labor performed by citizens of a country or foreign migrants who migrate from their place of permanent residence to another settlement in order to work at any stage of plant production including sowing, planting, cultivation, maintenance, spraying and harvesting in someone else's field or garden in return for wages or payment in kind.

There are a wide range of possible interventions to prevent child marriages among seasonal migratory agricultural workers, from raising public awareness to punishing the perpetrator, including the following:

- To raise public awareness about the harms of child marriage and ways to protect children from these.
- To raise awareness of families and children about the harms of child marriage.
- To raise awareness of children and professionals working with children about the services that can support them and about the obligation to report and methods of reporting.
- To ensure that the best interests of the child are taken into consideration in the assessment of the marriage permit requests made by children over the age of 16.
- To make a notification for the protection of children at risk of marriage.
- To make a notification for the investigation of crimes committed by persons who cause or mediate a child marriage.
- To provide support services such as education, vocational training, counseling, legal assistance, etc. to the child and/or his/her parents or caregivers in order to prevent child marriages.

In this framework, those who will work in the field to prevent child marriages among seasonal migratory agricultural worker families should have knowledge in various areas including the age of marriage, the causes and consequences of child marriage, methods that can be followed to identify and protect the child at risk of marriage, procedures to be followed in this process and informing the child or caregivers about the services they can benefit from. A short list of the information required in this context is presented in Table-1. Those who are

new to working in this field can make use of this list to identify the areas where they need information support and can access this information in the following sections of this guide.

Table 1. Checklist for Those Working on Child Marriages

Checklist for Field Workers	Check
I know the national legislation regarding the age of marriage.	<input type="checkbox"/>
I know the legal procedures in the field of child protection.	<input type="checkbox"/>
I know the requirements for allowing marriage requests for persons under 18 years of age.	<input type="checkbox"/>
I know and can recognize the signs to identify when a child is about to be married.	<input type="checkbox"/>
I know who to notify in case of child marriages.	<input type="checkbox"/>
I know how to report a child at risk.	<input type="checkbox"/>
I know the procedures to be followed for protection of children after notification.	<input type="checkbox"/>
I know enough to inform the child and his/her relatives about these procedures when necessary.	<input type="checkbox"/>
I know the crimes and suspects related to the marriage of a child.	<input type="checkbox"/>
I know where to report these crimes.	<input type="checkbox"/>
I know how to report a crime.	<input type="checkbox"/>
I know the procedures to be followed after reporting a crime.	<input type="checkbox"/>
I know enough to inform the child and his/her relatives about these procedures when necessary.	<input type="checkbox"/>
I am knowledgeable about the services that children who is or at risk of getting married and their caregivers can benefit.	<input type="checkbox"/>

This guide has been prepared in consideration of the studies carried out at international and national levels on the prevention of child marriages, existing legislation and the findings of the field study conducted by the experts of Development Workshop Cooperative on 24-30 September 2023 in Seyhan, Karataş, Yüreğir, Yumurtalık districts of Adana and Tarsus district of Mersin on the causes of child marriages among seasonal migratory agricultural worker families, the perceptions and approaches of families and children on this issue, and the identification, referral and intervention services offered and need to be offered in this field.

1

Child Marriage and Child Marriages Among Seasonal Migratory Agricultural Worker Families: Size of the Problem, Causes and Consequences

1.1

Size of the Problem¹

“Child marriage” refers to official and unofficial marriages where at least one of the parties is under the age of 18.²

In Turkey, one in every five women in the 20-49 age group was married before the age of 18, i.e. as a child.³ According to available data, 52,444 girls and 6,460 boys aged 16-19 were officially married in 2022.⁴ The difference between the number of girls and boys married as children is striking. Only 4 percent of married girls are married to boys of similar age to themselves.⁵

Child marriage is an even more widespread problem, affecting one in every two girls in Syrian temporary refugee families.⁶

Child marriages are more common in rural areas, with Southeastern Anatolia, Central Anatolia and the Mediterranean regions taking the first three places in the regional distribution.

The majority of girls who are married off are introduced to the man they will marry through their families or relatives and the decision to marry is made by

¹ Resource(s) used in this section:

- UNFPA (2020) “Child, Early and Forced Marriage in Turkey: Data Analysis of Turkey Demographic and Health Surveys 1993-2018”

² In studies in this field, the problems of “child marriage”, “early marriage” and “forced marriage” are often addressed together. “Early marriage” refers to marriages where parties are not yet at the necessary developmental level to assume the responsibilities of marriage; with this definition, “early marriage” includes child marriages and marriages of persons who, even if they are over the age of 18, are not equipped to give consent due their physical, emotional, sexual and psychological level of development and their lack of knowledge on individuals’ life choices. “Forced marriage” refers to marriages in which one and/or both parties have not personally expressed their full and free consent to the union.

Following resources can be useful for definitions:

- ECPAT (2016) “Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse”

- UNFPA (2021) “Legal Information Guide on Prevention of Child, Early and Forced Marriages”

³ According to 2018-TDHS data, 19.9 percent of women in the 20-49 age group were married before the age of 18, and 3.6 percent were married before the age of 15. For women in the 20-24 age group, these rates are 14.7 percent and 2.0 percent, respectively.

⁴ Turkish Statistical Institute, Gender Statistics, 2022

⁵ According to 2018-TDHS data, 16 percent of women in the 20-24 age group who were married before the age of 18 were married to men 10+ years older than themselves, 50 percent were married to men 5-9 years older than themselves, 30 percent were married to men 1-4 years older than themselves, 3 percent were married to men the same age as themselves and 1 percent were married to men younger than themselves.

⁶ In a study conducted with a sample of Syrian migrant women within the context of 2018-TDHS, it was reported that 40.0 percent of women in the 20-49 age group and 44.8 percent of women in the 20-24 age group were married under the age of 18.

their families.⁷ 14 percent of girls married before the age of 18 and 23 percent of girls married before the age of 15 were married off without their consent.

Prevalence of seasonal migratory agricultural labor and child marriage among seasonal migratory agricultural worker families

As stated in the report prepared by the TBMM (Turkish Grand National Assembly) Research Commission on the problems of seasonal agricultural workers,⁸ according to official records, nearly 500 thousand people participate in the seasonal migratory agricultural labor force in Turkey. Considering that the majority of the migratory agricultural labor force work or live in agricultural areas with their family members, the total population of seasonal migratory agricultural worker families is estimated to exceed 1 million.

Although there is no comprehensive research on the prevalence of child marriage among seasonal migratory agricultural worker families, several studies conducted in this field give an idea about the seriousness of the problem:

- In a survey conducted with 1,353 participants in 11 provinces where seasonal migratory agricultural workers are concentrated, it was found that 63 percent of women were married as children (23 percent at the age of 13-15, 40 percent at the age of 16-17).⁹
- In a survey conducted with 1,200 seasonal migratory agricultural workers in Adiyaman and Şanlıurfa, half of the women aged 15-24 at the time of the survey reported that they were married at the age of 17.5 or younger, and 41 percent of married women reported becoming mothers before the age of 18.¹⁰
- In a survey conducted with 300 women who came to Şanlıurfa as seasonal migratory agricultural workers, it was observed that the age of first marriage for 77 percent of women and the age of first pregnancy for 61 percent of women were under the age of 20.¹¹
- In another study conducted with 714 seasonal migratory agricultural workers in Adana, the average age at first marriage was 15.4 for women and 23.0 for men. This study also compared the average age at first marriage with the average age in Turkey and highlighted that the average age at first marriage in seasonal agricultural workers' families was significantly lower than in Turkey on average (8.1 years lower for women and 3.7 years lower for men).¹²
- In a study conducted with seasonal migratory agricultural worker families in Eskişehir, 26.8 percent of women said they were married between the ages of 13-15 and 32.8 percent said they were married between the ages of 16-17. These rates were 6.1 percent and 16.6 percent for men.¹³

⁷ According to 2018-TDHS data, 46 percent of women in the 20-24 age group and 59.6 percent of women in the 20-49 age group who were married before the age of 18 were married by the decision of their families.

⁸ Turkish Grand National Assembly (2015) "Report of the Parliamentary Research Committee Established to Investigate the Problems of Seasonal Agricultural Workers and to Identify Necessary Measures"

⁹ Support to Life Association (2015) "Seasonal Agricultural Work in Turkey Survey Report"

¹⁰ Şimşek, Z. (2012) "Mevsimlik Tarım İşçilerinin ve Ailelerinin İhtiyaçlarının Belirlenmesi Araştırması"

¹¹ Bucak, F.K., Kahraman, S., Kartal, M. (2018) "Mevsimlik Tarım İşçisi Kadınların Bebek Yapma Hakkında Düşünceleri ve Aile Planlaması Kullanma Durumları" Sağlık Akademisyenleri Dergisi (5)3, 178-183

¹² Sevinç, M.R. (2015) Adana İlinde Mevsimlik Tarım İşçiliğinin Sosyo-Ekonomik Yapısı ve Geleceği (PhD Thesis, Çukurova University, Institute of Natural and Applied Sciences, Agricultural Economics)

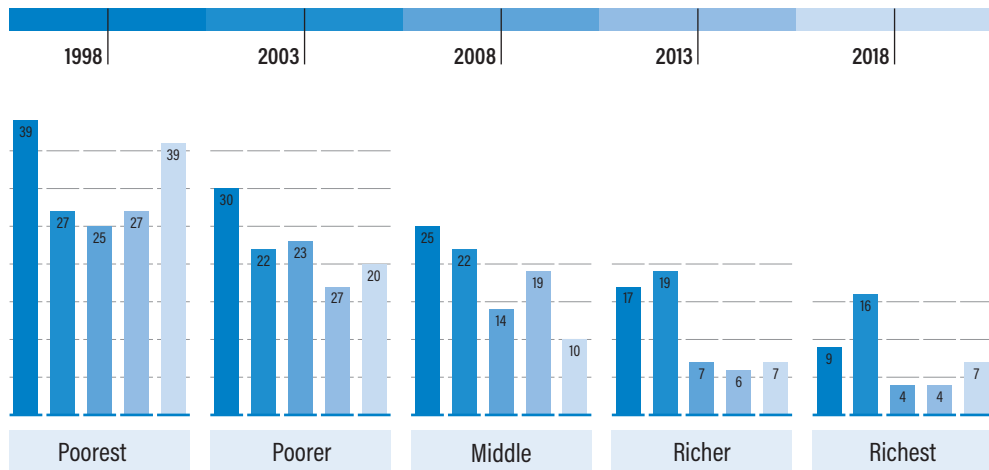
¹³ Kaleci, H. (2007) Mevsimlik Tarım İşçilerinin Sosyolojik Analizi: Eskişehir Örneği (Master's Thesis, Anadolu University Social Sciences Institute, Sociology)

1.2 Main Reasons Behind Child Marriage¹⁴

↳ Poverty

Poverty is one of the most important reasons behind child marriages. Studies show that there is an inverse relationship between child marriages and the welfare level of the family; as the welfare level decreases, the number of child marriages increases (Graph-1). In Turkey, 56 percent of women living in households with the lowest and low wealth indexes were married before the age of 18.¹⁵ As the welfare level increases, the rate of child marriages decreases but is not eliminated. This shows that poverty alone is not enough to explain this problem.

Graph 1. Prevalence of Child Marriages by Wealth Index (%)



Source: UNFPA (2020) "Child, Early and Forced Marriage in Turkey: Data Analysis of Turkey Demographic and Health Surveys 1993-2018"

The relationship between child marriage and poverty is based on the fact that families tend to see girls as an economic burden and consider early marriage as a way to alleviate this economic burden, and on the other hand, as an economic

¹⁴ Resource(s) used in this section:

- UNFPA (2021) "Child, Early and Forced Marriages – Key Information Guide"
- UNFPA (2020) "Child, Early and Forced Marriage in Turkey: Data Analysis of Turkey Demographic and Health Surveys 1993-2018"
- UNFPA (2020) "A Multi-Sector Approach to Health Risks and Consequences of Child, Early and Forced Marriage"
- UN Women (2021) "Perception of Men on Child, Early and Forced Marriages"

¹⁵ According to 2018-TDHS data, the percentages of women in the 20-24 age group who married before the age of 18 according to the wealth index levels were 35.6 percent for the poorest, 20.3 percent for the poor, 9.5 percent for the middle, 6.5 percent for the richer and 7.5 percent for the richest.

gain with financial returns such as bride price and milk money. In Turkey, 4 out of every 10 girls who are married off before the age of 18 report that their families received bride price.¹⁶

Another reason behind is that since children can contribute to the family's economic income after a certain age, having as many children as possible as early as possible can be seen as a way of coping with economic difficulties.

➤ Gender inequality, cultural norms and the need to protect girls

Gender roles assigned and taught to women and related cultural norms are also among the important factors that pave the way for child marriages.

It is stated that an important reason for child marriages is that children entering adolescence get curious about sexuality and families consent to their children's marriages to protect them from the danger of any sexual experience outside of marriage. However, this is much of a serious concern for girls and marriage can be seen as a way of "protecting" girls. Thus, it is thought that by marrying off girls when they reach puberty, they can be prevented from getting close to a person whom the family does not approve of, from voluntarily or forcibly engaging in premarital sexual intercourse, and thus the honor of the family would be protected.

False beliefs that a child entering puberty is ready for marriage, that children who marry at a young age and "grow up" together will be more compatible, or that girls who marry at a young age will more easily adapt to the culture and habits of the family they marry into, are also among other pushing factors for child marriages. The fact that the main roles assigned to married girls are childbearing and housework, and that these roles do not require education or skills, further facilitates child marriage.

➤ Prevalence of traditional childhood perception

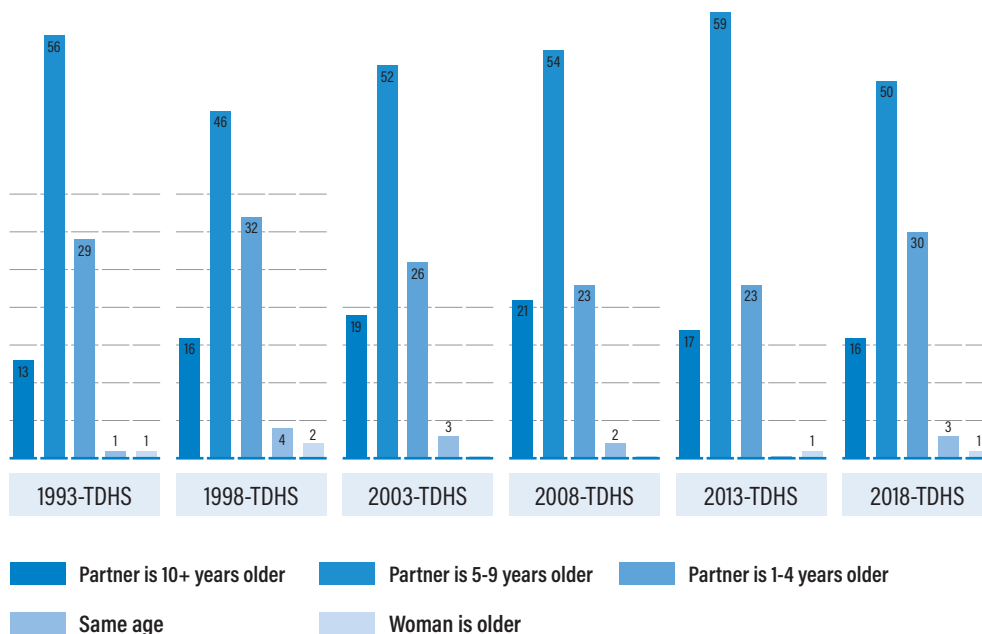
The most important problem regarding the childhood perception in child marriages is the adults' perception of children as spouses or sexual partners. Considering that the majority of girls who are married off are married off to a man who is at least 5 years older than them¹⁷ (Graph-2), it is understood that what is considered as sexual abuse of children in the doctrine is socially accepted when it comes to marriage. This shows that the traditional perception on childhood

¹⁶ According to 2018-TDHS data, 38.2 percent of women in the 20-24 age group, who were married before the age of 18 received bride money for their families.

¹⁷ According to 2018-TDHS data, 16 percent of women in the 20-24 age group who were married before the age of 18 were married to men 10+ years older than themselves, 50 percent were married to men 5-9 years older than themselves, 30 percent were married to men 1-4 years older than themselves, 3 percent were married to men the same age as themselves and 1 percent were married to men younger than themselves.

still persists. Therefore, it is necessary to see the impact of this perception on child marriages and to combat with it.

Graph 2. Age Difference Between Partners Among 20-24 Age Group Who Married Before Age 18 (%)



Source: UNFPA (2020) "Child, Early and Forced Marriage in Turkey: Data Analysis of Turkey Demographic and Health Surveys 1993-2018"

Studies in the field of childhood and children's rights, while describing the changes in childhood according to historical and cultural factors, emphasize that one of the main differences between the traditional approach and the modern understanding of childhood is the limitation imposed on participation in adult life. With industrialization, urbanization and the establishment of nation states, changes begin to occur in the perception of childhood and in the lives of children. First of all, children were removed from the adult world, in which they had carried out many activities together, such as land work, animal care, cooking, sewing, entertainment and worship, and were sent to school.¹⁸ This was necessary to protect children from the risks created by the changing living conditions in the modern age, when compared to the traditional times where children participated in adult life on their own. This was mainly due to the fact that not only children lost the protection of the extended family with

¹⁸ Franklin, Bob. (1986). The Rights of Children.

urbanization and industrialization, but also they needed to acquire certain skills in order to survive in the new social order. With the formation of nation states, it became a responsibility of the States to ensure that children acquire adequate skills and secure their development until they are able to live without the need for parental supervision. The United Nations Convention on the Rights of the Child adopted this approach and assigned to States the duty to protect children from all forms of neglect and abuse.

Considering child marriages and even marriages between children and adults acceptable exposes children to all kinds of risks and abuse, especially sexual abuse. Therefore, changing the traditional perception of childhood plays an important role in preventing child marriages.

↳ Lack of access to quality education

Marriage is seen as the most important reason for adolescent girls to drop out of school. While nearly half of girls with no education marry under the age of 18, this rate drops to 1 percent among university graduates.¹⁹

Child marriages are also directly related to the low level of education of the family. As the education level of the family decreases, the rate of marrying off their children increases. In Turkey, almost all of the parents of girls who are married off before the age of 18 are at most primary school graduates, and the rate of mothers who have no education or have not completed primary school is as high as 63 percent.²⁰

¹⁹ Turkish Statistical Institute, Turkish Family Structure Survey, 2021

²⁰ According to 2018-TDHS data, regarding the education level of mothers of women in the 20-24 age group who were married before the age of 18, 63.3 percent had no education or had not completed primary school, 33.6 percent had primary school education, and 3.1 percent had secondary school education or higher. For fathers, these rates were 29.6 percent, 58.0 percent and 12.4 percent, respectively.

Pushing factors for child marriages among seasonal migratory agricultural worker families²¹

Research and studies conducted on seasonal migratory agricultural worker families in different regions for different crops and the findings of the fieldwork carried out during the preparation of this guide show that the root causes of child marriage are largely prevalent among seasonal migratory agricultural worker families:

- Almost all seasonal migratory agricultural workers work unregistered and/or without a contract, and the income earned by families remains well below the poverty line, even if it is assumed that both parents work 30 days a month without any vacation or leave. In cases where there is only one working parent in the family, or when it is not possible to work every day due to weather conditions, illness, etc., the income earned falls even below the hunger threshold.
- It is understood that among the majority of seasonal migratory agricultural worker families, it is a common practice to collect bride price for girls who are married off. During the fieldwork conducted during the preparation of this guide, it was shared that the bride price paid as of September 2023 could reach up to 400 thousand TL (approximately 14,250 USD). This shows both that traditional practices continue and that marrying off girls is a strategy that can be used to overcome poverty.
- Gender inequality is also prominent among seasonal migratory agricultural worker families and can be even more radical especially in groups with weak social relations. Even very young girls are expected to fulfill responsibilities such as housework and care for young children in the family, and cultural norms still support early marriage, especially for girls.
- The reasons given by families who say that children can or should be married before the age of 18 also show that cultural norms and the desire to protect girls and expand families are important risk factors that increase the prevalence of child marriage among seasonal migratory agricultural worker families:
"If a girl loves a man or is deceived by someone, it would put her father in a difficult situation, so she should be married off."
"If she runs away, she should be shot. That is why we marry them off."
"We marry them off to protect the girl."

²¹ Resource(s) used in this section:

- Bucak, F.K., Kahraman, S., Kartal, M. (2018) "Mevsimlik Tarım İşçisi Kadınların Bebek Yapma Hakkında Düşünceleri ve Aile Planlaması Kullanma Durumları" Sağlık Akademisyenleri Dergisi (5)3, 178-183
- Support to Life Association (2021) "Seasonal Agricultural Fields and Children's Status: Field Study Findings from Silifke, Mersin"
- Support to Life Association (2015) "Seasonal Agricultural Work in Turkey Survey Report"
- Kaleci, H. (2007) Mevsimlik Tarım İşçilerinin Sosyolojik Analizi: Eskişehir Örneği (Master's Thesis, Anadolu University Social Sciences Institute, Sociology)
- Development Workshop (2019) "Poverty, Migration and Child Labor: The Socio-Economic Profile of Seasonal Agricultural Worker Households"
- Development Workshop (2018) "Health Risks Faced by Children Working in Agricultural Production"
- Development Workshop (2016) "Fertile Lands, Bitter Lives: The Situation Analysis Report on Syrian Seasonal Agricultural Workers in the Adana Plain"
- Development Workshop (2014) "Fındık Hasadının Oyuncuları - Batı Karadeniz İllerinde Fındık Hasadında Yer Alan Mevsimlik Gezici Tarım İşçileri, Tarım İşçilerinin Çocukları, Tarım Aracıları ve Bahçe Sahipleri Temel Araştırması"
- Development Workshop (2012) "Seasonal Agricultural Work and Children: Problem Analysis and Policy Recommendations"
- Sevinç, M.R. (2015) Adana İlinde Mevsimlik Tarım İşçiliğinin Sosyo-Ekonomik Yapısı ve Geleceği (PhD Thesis, Çukurova University, Institute of Natural and Applied Sciences, Agricultural Economics)
- Şimşek, Z. (2012) "Mevsimlik Tarım İşçilerinin ve Ailelerinin İhtiyaçlarının Belirlenmesi Araştırması"

"Both girls and boys should marry early, without committing adultery."

"Early marriage is good. It is good for labor force. Children both do daily work and work in agriculture."

"They should get married, it is the custom."

- It is observed that among families of seasonal migratory agricultural workers, the traditional understanding of childhood, which accepts that children can participate in working life at an early age, get married and have children, prevails. In the field study carried out during the preparation phase of this guide, it was stated that the ideal marriage age that seasonal migratory agricultural worker families envisage for their children varies between 17-18 years of age for girls and 20-22 years of age for boys. However, both statistics on the age of marriage²² and observations in the field show that girls can be seen as the wives or sexual partners of adult men much older than themselves, which stands out as an important problem of social perspective that paves the way for child marriages.
- Children migrating with their families engaged in seasonal agricultural work may not attend school regularly due to reasons such as the necessity to travel, low levels of cognitive development and academic achievement due to the conditions they are exposed to, lack of adult supervision, especially girls having other responsibilities such as taking care of siblings or doing housework, low expectations from education or family opposition to girls' education, and long-term absenteeism may lead to disengagement from the education process. Research shows that one out of three children aged 12-15 and three out of four children aged 16-18 in seasonal migratory agricultural worker families do not attend school. For children of Syrian migrant families, this rate can exceed 90 percent.
- Research shows that almost all women and more than half of men among seasonal migratory agricultural worker families have at most primary school education level; one in three women and one in two Syrian workers are illiterate.

²² According to 2018-TDHS data, 16 percent of women in the 20-24 age group who were married before the age of 18 were married to men 10+ years older than themselves, 50 percent were married to men 5-9 years older than themselves, 30 percent were married to men 1-4 years older than themselves, 3 percent were married to men the same age as themselves and 1 percent were married to men younger than themselves.

1.3 Consequences of Child Marriage²³

Child marriage violates many of the fundamental rights of children recognized in the United Nations Convention on the Rights of the Child, including the right to health, protection from all kinds of neglect-abuse and exploitation, the right to rest, play, participate in cultural life and not to be separated from their parents. Among the consequences of child marriage that lead to these violations of rights are the following:

↳ Dropping out of school

Children married at a young age, and especially girls, drop out of education system due to the burden of housework, restriction of freedom of movement, pregnancy and childbearing, and legal obstacles to the attendance of married girls in school in some countries, including Turkey²⁴.

↳ Unemployment, dependency and impoverishment

Children's dropping out of education system makes it difficult for them to acquire a profession, reduces their participation in labour life, impoverishes them and increases their dependency on other people as they have no income of their own.

↳ Exposure to domestic and non-domestic violence

Women who marry at an early age are exposed to physical and emotional violence in their marriages more than women in other age groups.

↳ Persistence of gender inequality

With marriage, many obstacles arise especially for girls' participation in social life, their participation in decision-making processes both within the family and in the public sphere becomes more difficult, and the marital problems cause them to become even more disempowered. All these problems affect not only girls, young girls and women but also their children and result in the persistence of gender inequality.

²³ Resource(s) used in this section:

- UNFPA (2021) "Child, Early and Forced Marriages – Key Information Guide"
- UNFPA (2020) "A Multi-Sector Approach to Health Risks and Consequences of Child, Early and Forced Marriage"

²⁴ According to Article 21/4 of the Ministry of National Education Secondary Education Institutions Regulation titled "registration conditions", "married students are not registered, those who get married while they are students are dismissed from school and their records are sent to open education high school, vocational open education high school or open education religious high school via e-School."

↳ Child pregnancy

Child marriages lead to child pregnancies and child pregnancies result in increased health risks including maternal and infant mortality, miscarriage, premature birth, difficult birth, growth retardation during pregnancy, low birth weight, severe bleeding, lacerations, sexually transmitted infections and postnatal problems.

↳ Unprepared parenting

Becoming a parent before being physically or mentally ready for parenthood is a very heavy responsibility and poses significant risks for the health and development of both parents and their children.

↳ Psychological and mental problems

Child marriage prevents children from completing their adolescence in a healthy manner and negatively affects their identity development and mental health. Because these effects take time to appear or be noticed, and children have difficulty asking for help at an early age, these problems increase over time and can cause many problems, including major depression.

↳ General health and reproductive health problems

Child marriages increase the risk of acute or chronic general and reproductive health problems such as musculoskeletal diseases in children, infection, anemia, cystitis, migraine, hypertension, sexually transmitted diseases, and have very serious consequences that can lead to a decrease in expected healthy life expectancy and early death.

2

Age of Marriage

One of the first issues that those working in the area of preventing child marriages should have the knowledge of is the age of marriage as the Turkish Civil Code regulates three different ages for marriage. Legally, a person must be 18 years of age in order to marry by his/her own decision. This regulation does not mean that those who have not reached the age of 18 can marry with the decision of their parents, guardians or judges; it means that they cannot marry by their own decision alone, and that the permission of the parents, guardians or judges is also required. A person who has completed the age of 17 must apply to the marriage officer and the person who has completed the age of 16 must apply to the judge to inform them of their decision to marry and request permission to do so.

There are some conditions for granting this permission, which are explained in the rest of this section. One of the important steps in preventing child marriage is to raise the awareness of society and law enforcement officials to ensure that these conditions are known and sought.

In this context;

- Parents should be aware of the conditions that they must comply with and that their decisions will be monitored if they do not comply.
- Persons working with children should be aware that age-related exceptions are subject to scrutiny and do not allow adults to act arbitrarily, and that the duty to report for all those responsible for child protection extends to this area as well.
- Law enforcers should be requested to inquire in accordance with the law and in the best interests of the child.

2.1 Age 18+Power of Discernment

In order for a person to marry by their own decision, they must be over 18 years of age and have the power of discernment.²⁵ According to the UN Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (article 1), *“No marriage shall be legally entered into without the full and free consent of both parties, such consent to be expressed by them in person after due publicity and in the presence of the authority competent to solemnize the marriage and of witnesses, as prescribed by law.”* Therefore, it is not enough for the person to

²⁵ Turkish Civil Code article 124; Marriage Regulation article 14 and article 20

have the power of discernment, he/she must also have full and free will. The power of discernment is also the first condition for having full and free will.

Regarding the age of marriage, the Turkish Civil Code provides two exceptions to the age limit of 18. Children over 17 years of age may marry with the written permission of their parents or guardians. Those who do not have a parent or guardian may marry with the permission of the guardianship authority (court of peace). In exceptional circumstances and in the existence of a very important reason, a judge (family court judge) may authorize the marriage of children over the age of 16. These exceptions concern the age. They are not exceptions to the conditions of having the power of discernment and wanting to conclude the marriage contract with full and free will. In other words, when it comes to marriage at the ages of 17 and 16, the child must have the power of discernment and full and free will. This is stated in the Marriage Regulation (article 14) as *“those who do not have the power of discernment cannot marry even if they are recognized as adults by the court”*.

The legal regulations on the age of marriage aim to regulate the conditions under which children under the age of 18 may be authorized to get married if they wish to do so. It does not aim to enable the parent or guardian or the judge to decide on behalf of children who do not yet have the power of discernment. The Marriage Regulation (article 14) states that the request for marriage must come from the child: *“The judge may authorise the marriage of the minor or restricted person who applies in this regard after hearing the legal representative who does not allow the marriage without a justified reason.”*

2.2 Age 17+Power of Discernment+Assessment of Child’s Best Interest

A child who wants to get married at the age of 17 must obtain the permission of his/her parent or guardian. The parent or guardian is obliged to take the child’s best interests into consideration when making decisions regarding the child (Turkish Civil Code article 339). If there is a situation that jeopardizes the child’s interests and the parents cannot find a remedy or are unable to do so, the judge shall take appropriate measures for the protection of the child (Turkish Civil Code article 346). Based on these provisions, the following three should be concluded:

- 1 The parent or guardian cannot decide to marry the child.
- 2 If the child wants to get married and requests for permission to marry, the parent or guardian is obliged to assess the appropriateness of this request by considering the best interests of the child.
- 3 If the parent or guardian does not consider the best interests of the child when making this assessment, the judge has the authority to take appropriate measures for the protection of the child.

Therefore, the request of a 17-year-old child for permission to marry and the parent's acceptance of this request and allowing the child to marry is not an unreviewable authority. If the decision regarding the marriage of the child is made by the parent or guardian, or if the request for permission for the child to marry is accepted by the parent or guardian without considering the best interests of the child, it can be requested from the judge to take necessary measures for the protection of the child.

2.3 Age 16+Power of Discernment+Assessment of Child's Best Interest+Existence of Exceptional Circumstances and a Very Important Reason

If a child over 16 years of age who has the power of discernment wishes to marry, he/she must apply to the family court judge. In this case, the judge will investigate whether the child has the power of discernment, whether he/she has full and free will, and whether there is an extraordinary situation and a very important reason that requires the child to marry, after examining the parent or guardian's decision that takes into consideration the child's best interests (Turkish Civil Code article 124).

In accordance with the UN Convention on the Rights of the Child (article 3), the judge must prioritize the best interests of the child when making these assessments and making decisions. For this reason, the exceptional or very important reason should not arise from a crime committed against the child or a situation that requires the protection of the child. For example, the fact that the child has become pregnant as a result of sexual abuse cannot be considered an exceptional circumstance or a very important reason. The fact that the child's parents have died and the child is staying with a relative or that the child's parents are poor and the child will marry a richer person cannot be considered a very important reason. Considering the principle of prioritizing the best interests of the child, the exceptional situation should only be a situation related to the child, such as a change in the child's development before the usual time, such as the child having the power of discernment or another change in his/her development occurring before the normal time. The very important reason should also be assessed in line with the principle of the best interests of the child and there should be a benefit to be gained by accepting early marriage. These may be seen as difficult conditions to fulfil, and in fact the law does not intend to facilitate the marriage of a child.

The jurisprudence regarding marriage license applications is also changing in line with this objective. The Supreme Court of Appeals has ruled that situations

such as “living together as husband and wife”;²⁶ or “being engaged and the fiancé coming and going to the house or travelling with the fiancé causing gossips in the neighbourhood”²⁷ which are not related to the child’s interest and which were included in previous judicial decisions, cannot be considered as exceptional circumstances or very important reasons.

2.4 Age of Marriage for Children Coming from a Country where Child Marriage is Legally Valid

How to proceed in cases where the laws of the country of origin determines an earlier age for marriage has become one of the important problems in the field of child protection in Turkey along with increasing migration. Law No. 5718 on International Private and Procedural Law (article 13) stipulates that the law of the country to which the parties are subject at the time of marriage, i.e. the law of the country of nationality, shall apply in terms of the capacity and conditions of marriage, and the law of the country where the marriage takes place, i.e. the laws of the Republic of Turkey, shall apply in terms of the form of the marriage contract. However, according to article 5 of the same law, if the provision of the foreign law to be applied in a certain case is openly contrary to the public order of Turkey, the Turkish law shall apply.

In this case;

- If one of the parties is a Turkish citizen, Turkish law will be applied when determining the capacity and conditions of marriage for that person. Therefore, at the age of 18, one’s own decision will be required; at the age of 17, there will need to be parental permission in addition to one’s own decision; and at 16, the judge’s decision will be required in addition to one’s own decision.
- If both parties are citizens of a country that allows child marriage and they will get married in Turkey, the marriage contract will be subject to Turkish law in terms of formality and an official marriage will have to be solemnized. When making an assessment in terms of marriage age, it will first be necessary to look at the law of the country of citizenship of the people who will get married. If the laws of the country of citizenship determine an age lower than the age of marriage determined by the Turkish Civil Code, the Turkish Civil Code shall apply as the age of marriage is a regulation regarding public order. The Parliamentary Assembly of the Council of Europe recommends that child marriages performed abroad should not be recognized in

²⁶ Y 2. HD E. 2015/3626 K. 2015/9331 T. 6.5.2015

²⁷ Y 2HD E. 2014/10493 K. 2014/16910 10.09.2014

order to prevent forced marriages and child marriages.²⁸ Similarly, The European Court of Human Rights, in its judgement in the case of “Z. H. and R.H. v. Switzerland”²⁹, stated that the non-recognition of the religious marriage of the Afghan citizen applicants in Iran when they were 14 and 18 years of age by the Swiss authorities while reviewing their asylum applications had not violated their right to respect for their private and family life.

FORM OF MARRIAGE CONTRACT AND AGE OF MARRIAGE UNDER SYRIAN LAW³⁰

Establishment of Marriage under the Syrian Personal Status Law (PSL)

...The conditions that must be met for the valid establishment of a religious or civil marriage are as follows: The parties must have the necessary legal capacity to establish a marriage union. The female party must consent to the marriage. The legal representative responsible for protecting the female party must be present during the marriage and must approve the marriage. The parties must agree on the dowry value (Carlisle, 2008). Both parties must clearly express their desire to marry. Statements of offer and acceptance must be stated clearly and in a way that can be heard by witnesses (PSL art. 11-12). Each of the witnesses must consist of two adult, discerning and Muslim men, or a man and two women (PSL art. 12; Nasir, 1990, van Eijk, 2013, Carlisle, 2008). If a marriage contract contains an obligation that conflicts with the legal nature and purpose of marriage or is unlawful, the obligation in question is ignored; However, the marriage contract remains valid (PSL art. 14; Anderson, 1955).

In an official marriage, the parties submit their marriage petitions to the judge in the Sharia court (PSL art.40/f.1). In addition to this petition; an official document issued by the headman, stating the name, age, place of residence of the parties, the name of the legal representative and that there is no obstacle to the parties' marriage (PSL art. 40/f.1.a); a civil registry explaining the marital status of the parties (PSL art.40/f.1.b); health report stating that there is no medical problem for the parties to marry (PSL art.40/f.1.c); Marriage permission is submitted to the court for people who are in military service or are doing their military service (PSL art. 40/f.1; Anderson, 1955, Carlisle, 2008, van Eijk, 2013).

In a civil marriage, the parties submit a marriage petition to the judge at the Sharia Court (PSL art. 40/f.1). In addition to this petition; an official document issued by the mukhtar stating the name, age, place of residence, name of the legal representative and the name of the parties and that there is no obstacle to the marriage of the parties (PSL art.40/f.1.a); a civil register explaining the marital status of the parties (PSL art.40/f.1.b); a medical certificate stating that there is no medical impediment for the parties to marry (PSL art.40/f.1.c); and a marriage authorization for persons serving in the military or doing their military service are submitted to the court (PSL art.40/f.1; Anderson, 1955, Carlisle, 2008, van Eijk, 2013).

All marriages must be registered in the registry kept with the court. PSL article 40/f.2 regulates that marriages concluded according to custom and tradition can be registered if the necessary conditions are met. As an exception, if a child has been born or there is a pregnancy, the marriage can be registered without complying with the said conditions (Carlisle, 2008, van Eijk, 2013).

²⁸ Council of Europe Parliamentary Assembly “Forced Marriages and Child Marriages” R 1468 (2005) 14.2 <https://rm.coe.int/090000168079eff8>

²⁹ ECHR, Z. H. and R. H. v. Switzerland, no. 60119/12, 8 December 2015 <https://www.refworld.org/pdfid/566843824.pdf>

³⁰ Ministry of Family and Social Policies (2016) “Suriyeliler ile Türkiye Cumhuriyeti Vatandaşları Arasındaki Evlilik İlişkileri Araştırması” (s.41-45)

In order to emphasize the importance of civil marriage in the Syrian PSL, the Penal Code No. 148 of 1949 stipulated that clergy who perform marriages outside the court ceremony would be punished with fines or imprisonment (Carlisle, 2008).

Age of Marriage under the Syrian Personal Status Law (PSL)

In the Syrian PSL, the age of puberty is a prerequisite for a person to have the capacity to marry (Nasir, 1990). A child who has not reached the age of puberty cannot marry and cannot be authorised to marry by his/her legal representative (Anderson, 1955). The minimum age of marriage has been set by the legislator as eighteen for men and seventeen for women (PSL article 16). If a boy who has reached the age of fifteen or a girl who has reached the age of thirteen claims to have reached the age of puberty, the judge may allow the boy or girl to marry if he/she believes the sincerity of the claim and is convinced that they have reached sufficient physical maturity (PSL art.18/f.1; CEDAW/C/SYR/2: par.376; Anderson, 1955, Nasir, 1990, van Eijk, 2013).

Pursuant to Article 18/f.2 of the PSL, if the legal representative of the girl requesting marriage is her father or grandfather, the parties applying for marriage must also obtain the consent of the legal representative. If the judge determines that there is an unreasonable difference between the ages of the parties or if he/she does not see any benefit in the realisation of the marriage, he/she may refrain from granting a marriage licence (PSL article 19; Anderson, 1955, van Eijk, 2013, Nasir, 1990).

In the Explanatory Commentary to the Syrian PSL, it is mentioned that since the significant age difference between the spouses causes imbalances and moral disorders in marital life, in practice, courts reject marriage applications on the grounds of such actual problems. For this reason, it is stated that the 1959 PSL explicitly stipulates that the judge may refrain from approving the marriage application in such cases (Anderson, 1955).

Having acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on 28 March 2003, Syria has a reservation to article 16, paragraph 2 of the Convention. The said paragraph states that *"The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory."* Syria has also been a party to the UN Convention on the Rights of the Child since 15 July 1993 (with reservations on article 14, article 20 and article 21). The 2009 report of the Syrian Arab Republic to the Committee on the Rights of the Child states that there is a draft law to set the minimum age of marriage at eighteen for both men and women, and that efforts are being made to raise public awareness, particularly in rural areas, to prevent underage marriage of girls (CRC/C/SYR/3-4).

Sources used in this section:

- Anderson, J. N. D. (1955). The Syrian law of personal status. Bulletin of the School of Oriental and African Studies, 17, (1), 34-49.
- Carlisle, J. (2008). From behind the door: A damascus court copes with an alleged out of court marriage.
- Nasir, J. N. (1990). The Islamic law of personal status, (2nd edition). London: Graham & Trotman.
- van Eijk, E. (2013). Family law in Syria: A plurality of laws, norms, and legal practices. Doctoral thesis, Leiden University, 02.05.2016, <https://openaccess.leidenuniv.nl/handle/1887/21765>.

Another concern in this regard is the condition of proving the marriage contract with a document. The existence of the marriage contract must be proved by a valid document according to the law of the country of citizenship. If there is a dispute about the validity of the submitted document or the legality of the age of marriage, the duty to determine the national law to be applied in the case belongs to the judge (International Private and Procedural Law article

2/1). The judge may ask the parties for assistance in proving the national law. If the national law cannot be determined, the provisions of Turkish law must be applied (International Private and Procedural Law article 2/2).

For example, Syrian citizens are obliged to prove that they have a valid marriage contract according to the law to which they are subject. It is also the duty of the judge to investigate whether the law they claim is valid or not since there may be more than one region in the country of citizenship and each region may have its own laws. In this case; *“If the country whose law shall govern has two or more regional units and these units have different legal systems, the regional law to be applied shall be determined based on the law of that country. In case there is an absence of a determining provision, the regional law which is the most closely related to the conflict shall apply.”* (Article 2/5 of the Law on Private International Law and Procedural Law).

Personal Status Law of the Syrian Arab Republic (1953/59)³¹

Consent and declaration

Article 5

Marriage takes place with the proposal of one party and the acceptance of the other party.

Article 11

1- In the offer and acceptance, both parties must have agreed on every issue, provided that they are in the same assembly, both parties to the contract must hear what the other party is saying and understand what marriage is meant for, and neither party must have any actions or statements that would invalidate the offer before acceptance.

2- The offer is deemed invalid if the person making the offer is incompetent and one of both parties takes an action that will be considered objectionable.

Licence

Article 15

1- The marriage licence is conditional on intellect and puberty.

2- The judge may allow the marriage of a mentally unstable (deranged/senile) person if it is proven by a psychiatric board report showing that the marriage is beneficial to that person's recovery.

Article 16

Marriage license is acquired at the age of 18 for a boy and at the age of 17 for a girl.

Article 17

The judge is authorised not to allow a married man to marry a second wife unless there is a Sharia justification and he has the financial means to support both wives.

³¹ UNFPA (2021) “Legal Information Guide on Prevention of Child, Early and Forced Marriages” p. 54-55

Article 18

1- If a boy claims puberty after reaching the age of fifteen or a girl after reaching the age of thirteen and requests marriage, the judge shall determine the authenticity of their claims and authorise the marriage, taking into account the suitability of their physical development.

2- If the guardian is the father or grandfather, his consent is required.

Article 19

If the engaged couple are not suitable for each other in terms of age and there is no benefit in marriage, the judge is authorised not to approve this marriage.

Article 20

If a girl over the age of 17 wants to get married, the judge asks the girl's guardian to express his opinion within a period determined by him. If the guardian does not object or his objection is not deemed noteworthy, the judge allows the marriage, subject to qualification.

(Marriage) Contract transactions**Article 43**

The contract is made by the judge or the court officials authorized by him.

...

The above-mentioned discussion is related to civil law. In terms of the Turkish Criminal Code No. 5237 (article 8), which criminalizes sexual acts against a child, the law of the country where the person is located is applied. In this context, the Council of Europe (Lanzarote) Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the first regional convention aiming to protect children from sexual violence, which was signed in 2007 and entered into force in Turkey in 2011, requires the state parties to criminalize all sexual acts against children in terms of substantive criminal law (Chapter 4) and to apply the jurisdiction of the state broadly (article 25). This Convention also incorporates “principle of extraterritoriality”, which means that citizens or residents of a State Party can be prosecuted for certain offences even if the act is committed abroad.³² Therefore, persons who marry or marry off a minor, even if they are not Turkish nationals, will be subject to investigation and prosecution for the criminal offence that fits their actions.

³² Council of Europe (2007) “A Global Tool to Protect Children From Sexual Violence: Lanzarote Convention”

(Lanzarote) Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse

Article 25 – Jurisdiction

1. Each Party shall take the necessary legislative or other measures to establish jurisdiction over any offence established in accordance with this Convention, when the offence is committed:
 - a. in its territory; or
 - b. on board a ship flying the flag of that Party; or
 - c. on board an aircraft registered under the laws of that Party; or
 - d. by one of its nationals; or
 - e. by a person who has his or her habitual residence in its territory.
2. Each Party shall endeavour to take the necessary legislative or other measures to establish jurisdiction over any offence established in accordance with this Convention where the offence is committed against one of its nationals or a person who has his or her habitual residence in its territory.
3. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraph 1.e of this article.
4. For the prosecution of the offences established in accordance with Articles 18, 19, 20, paragraph 1.a, and 21, paragraph 1.a and b, of this Convention, each Party shall take the necessary legislative or other measures to ensure that its jurisdiction as regards paragraph 1.d is not subordinated to the condition that the acts are criminalised at the place where they were performed.
5. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right to limit the application of paragraph 4 of this article, with regard to offences established in accordance with Article 18, paragraph 1.b, second and third indents, to cases where its national has his or her habitual residence in its territory.
6. For the prosecution of the offences established in accordance with Articles 18, 19, 20, paragraph 1.a, and 21 of this Convention, each Party shall take the necessary legislative or other measures to ensure that its jurisdiction as regards paragraphs 1.d and e is not subordinated to the condition that the prosecution can only be initiated following a report from the victim or a denunciation from the State of the place where the offence was committed.
7. Each Party shall take the necessary legislative or other measures to establish jurisdiction over the offences established in accordance with this Convention, in cases where an alleged offender is present on its territory and it does not extradite him or her to another Party, solely on the basis of his or her nationality.
8. When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.
9. Without prejudice to the general rules of international law, this Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its internal law.

3

Identifying the Risks of Child Marriage Among Seasonal Migratory Agricultural Worker Families

According to the UN Convention on the Rights of the Child (CRC), the obligation to ensure the upbringing and development of the child belongs to the parents (CRC article 18). The States should support parents to fulfill this obligation. The State are also required to take all appropriate legislative, administrative, social and educational measures to protect the child against all kinds of physical or mental violence, injury or abuse, neglect or negligent treatment, and maltreatment or exploitation, including sexual abuse, while in the care of parents or legal guardians (CRC article 19). In order for the State to identify the need for parental support and risks to the child, it needs to have a comprehensive monitoring system. Therefore, all those responsible for the provision of services for children and society in general have a responsibility in identification of risks to children.

The Child Protection Law (article 6) and the Social Services Law (article 21) are the main regulations that identify the persons responsible for recognizing children's needs and risks to children. According to these regulations, the following persons have the responsibility in identification:

- Local civil authorities
- Health institutions
- Law enforcement officials (police, gendarmerie)
- Municipal police officers
- Education institutions
- Judicial authorities
- Administrative authorities
- Non-governmental organizations



If you work with seasonal migratory agricultural workers, you may come across a child who is about to be or has been married off.

Risks to a child can be easily monitored if the child receives regular services. Therefore, the protective environment for children includes the whole society,

especially all organizations that provide regular services to children and those working there.

In order to be able to identify the risk of child marriage, the child must regularly benefit from basic services, especially education and health. For example, a child of compulsory education age being absent from school, decreased interest in school, changes in clothing or friendships are clues that will help identify the risk of marriage. These clues can only be recognized by the teacher who sees the child regularly.

In the case of seasonal migratory agricultural work, the connection with educational institutions, which are the most important institutions that will ensure regular follow-up of the child, is weakened. Another important actor that can recognize the risk of child marriage is health service providers, but due to the mobile nature of seasonal migratory agricultural workers, it becomes difficult for family physicians to track them.

Therefore, in order to identify signs of risks and intervene early, education and health services need to be accessible to the population on the move, and employees of civil society organizations and institutions providing services such as local government and general supervision authorities need to have the knowledge and skills to identify and respond to risks within the scope of their responsibilities.

Among the signs to identify when children are about to be married off are the following:

- Dropping out of school, absenteeism
- Lack of interest in the classes
- Dressing up like an adult
- Wondering about marriage

While these signs relate to children of seasonal migratory agricultural worker families who are attending school, school dropout or absenteeism may be overlooked as girls often do not go to school or are frequently absent for many reasons. When working with seasonal migratory agricultural worker families, the following can also be used as signs to identify children at risk of marriage:

- Where girls and married women or young girls preparing for marriage dress differently, it may be useful to know these differences.
- Almost none of the unmarried girls have mobile phones among seasonal migratory agricultural worker families. Girls are only allowed to have a mobile phone when they get married or sometimes when they get engaged. The fact that a girl has a mobile phone can also be a sign.

In addition to these clues, you can also find out that a child is at risk of being married off in the following ways:

- The child to be married off can tell you about it as if it were a normal situation.
- The child to be married off may ask you for help.
- Other children may tell you about a child who is being married off.
- You may see wedding preparations being made.
- You may receive anonymous or named reports about a child to be married off.



If you are involved in efforts to prevent child marriage and are familiar with the methods that should be used in efforts to prevent child marriage, you can talk to the child's parents about the risks of child marriage when you realize that a child is about to be married off. Sometimes such information can be useful. However, these meetings should not cause a delay in reporting the situation to the Ministry of Family and Social Services.

When you meet with families, you can inform them about the following support services and refer them to the institutions where they can receive these supports:

- To receive economic support: Social assistance programs offered by the Ministry of Family and Social Services, including family support assistance, maternity assistance, milk assistance, food and clothing assistance, fuel assistance, social adaptation assistance, disability pension, conditional health assistance, orphan assistance, assistance to military families and relatives of martyrs, disaster-emergency assistance.
- To receive support for childcare:
 - Nursery and day care services provided by the Ministry of Family and Social Services.
 - Nursery and day care services provided by municipalities.
- To receive support for strengthening communication within the family or raising children:
 - Family counseling and family training programs offered by the Ministry of Family and Social Services.

- Family training programs offered by the Ministry of National Education.
- Counseling services offered to families/individuals by municipalities in various settings including family counseling centers, family guidance centers, psychological counseling centers, etc.
- To receive support to ensure children's school attendance:
 - Conditional education assistance provided by the Ministry of Family and Social Services.
 - Educational material aid, student transportation and food aid provided by the Ministry of Family and Social Services.
 - Counseling and support services provided by school guidance services and guidance research centers.
 - Special education and home education services provided by the Ministry of National Education for children with special education needs.
- To receive support regarding children's mental health:
 - Mental health services provided by child and adolescent psychiatry outpatient clinics of State hospitals.
 - Counseling and mental health services offered at women and family health centers established by municipalities.

4

Protection of Children Married or at Risk of Marriage Among Seasonal Migratory Agricultural Worker Families



Since being married off or getting married is a risk of neglect and abuse, you should report this to the authority responsible for child protection.

4.1

Notification

Persons who recognize risks to children must notify the Ministry of Family and Social Services (Child Protection Law article 6; Social Services Law article 21). The Ministry of Family and Social Services may assess the risk situation and resort to emergency protection, or it may wait for a social inquiry to be carried out, request the court to order a measure and implement it.

Notification basically means communicating a situation to an authorized institution. However, it is important that the notification is made correctly in order to achieve the objective promptly and effectively. For example, when a risk of marriage is reported to the law enforcement officers, they may say that they cannot deal with the situation on the grounds that no crime has been committed yet. For this reason, it should be known for what purpose the notification is made and the content of the notification text should be created accordingly.



You do not need to provide your identity information when making a notification. If you do, it will make it a little easier to follow up on your notification. However, most of the time, the person making the notification as a whistleblower is not informed about the process. Therefore, if possible, you can ask a person who is a party to the process to file a complaint.

If you are a person in a position to cooperate with the authorities responsible for child protection, such as the child's teacher, this can also make it easier for you to receive information about the process.

As a rule, the need for protection should be reported to the Provincial Directorate of the Ministry of Family and Social Services or ALO 183. However, this does not

mean that law enforcement has no role in protection. In the process of preventing a crime against the child by eliminating an imminent danger, law enforcement agencies are also among the authorities that can be notified. The Law on the Duties and Powers of the Police (article 1) regulates the responsibilities of the police for prevention in general and the protection of children in particular: *“The police shall protect public order, security of person, security of savings and safety of dwelling. It protects the honor, life and property of the public and ensures public peace. It shall assist children, disabled and incapacitated persons who ask for help and are in need of assistance.”*



If the marriage of the child will take place after a certain period of time, you can notify the Provincial Directorate of Family and Social Services; if the marriage will take place very soon (such as a few hours or a day later) or if the child is in danger of being taken away for this purpose, you can notify the nearest police or gendarmerie station.

4.2

What the Institution Receiving the Notification Can Do



It is important that you know how to proceed after notification so that you can determine what to do next or inform others about the incident.

↳ Urgent protection



It is an exceptional practice to take a child away from his/her parents without any social inquiry. Therefore, do not expect the child to be taken from his/her parents immediately after notification. However, if there is a current risk, it is also possible to take the child from his/her parents without any inquiry and place him/her in an institution.

In cases where it is necessary to take immediate protection measures regarding the child about whom a notification has been made, the child is taken into institutional care or foster care with the decision of the local administrative

authority until the necessary inquiry is carried out and a decision is taken by the court (Social Services Law article 22). In this case, the institution must apply to the juvenile judge within 5 days after the child arrives at the institution and request a measure to be taken about the child (Child Protection Law article 9). The juvenile judge who receives this request must make a decision within 3 days. This decision may be one of the following:

- 1 The continuation of the child's stay in institutional care and in this case;
 - a The status of the custody relationship
 - b Personal relationship status
 - c Implementation of another measure if needed
- 2 Termination of institutional care and ordering for implementation of another measure
- 3 No measure needed

➤ Conducting social inquiry and implementing measures according to the decision by the judge



In cases where there is no need for an urgent protection decision, social inquiry may take some time. This time varies according to provinces.

Therefore, if you are a civil society volunteer or a teacher working in this field, you may need to follow the child's situation and continue to report changing situations.

The Ministry of Family and Social Services must immediately conduct the necessary inquiry into the cases reported to it (Child Protection Law article; Social Services Law article 21). This inquiry is carried out by a social worker assigned by the Directorate of the Social Services Center where the child is located. The report to be prepared as a result of the social inquiry aims to provide information about the social environment in which the child lives, his/her personal characteristics and risks, and to suggest measures to be taken. In accordance with this report, if the child's safety can be ensured with the services to be provided to the mother, father or caregiver of the child, these measures are implemented by the relevant social service organizations. *Children Safe Teams*³³ monitor and follow-up with the child in order to ensure that he/she is safe.

³³ Ministry of Family and Social Services, Directive on Working Procedures and Principles of Children Safe Teams dated 16/03/2023

If the social inquiry report concludes that certain measures are necessary for the protection of the child together with the parents or separately from the parents, the situation is notified to the juvenile judge and it is requested that the recommended measures be ordered according to the need. Different types of measures in this context are explained in section 5.4.



If you have reported a child who is about to be or has been married off, the protection of the child and the effectiveness of the intervention depends on the support services to be provided to the child and his/her family.

For this reason, you should take into account that the child and parents may need different support services such as counseling, income, employment, change of residence, etc. and that these should be organized.

4.3

Ministry of Family and Social Services as Intervener in Court Cases



When a child asks for permission to marry, it is important to investigate whether the child made this decision on his/her own or whether he/she acted under pressure from his/her parents.

It is also important to ensure that the parents are acting in the best interests of the child.

Since child marriage is, in principle, dangerous for the safety and development of children, you can request that these cases be reported to the Ministry of Family and Social Services.

The Ministry of Family and Social Services can, if deems necessary, participate in an administrative, punitive and judiciary lawsuit or ex parte proceeding opened due to the violence or violence threat against children (Law No. 6284 article 20).

Due to this authority, the Ministry of Family and Social Services should be notified of the following cases related to child marriage:

- Marriage license applications
- Investigations and prosecutions initiated upon a report on the marriage of a child
- Applications for protective and/or preventive measures related to Law No. 6284
- Applications for protective and supportive measures related to the Child Protection Law

4.4

Possible Measures to Take



In addition to implementing the measures to be taken by the court, civil society organizations can provide supportive services in cooperation with the persons and institutions that will implement these measures.

One of the most important issues that those working in this field should be aware of in terms of measures is the source of the State's authority to intervene in the relationship between parents and children. First of all, in the most general sense, this authority is granted to the State by articles 18 and 19 of the UN Convention on the Rights of the Child and article 41 of the Constitution. Articles 346, 347 and 348 of the Turkish Civil Code determine the manner in which the State exercises this authority. Finally, the Child Protection Law and Law No. 6284 on the Protection of the Family and Prevention of Violence against Women specify what to do in case of such intervention. Article 3 of the Social Services Law determines the institutions that will implement the institutional care measure. The Child Protection Law and the Social Services Law also describe the procedures to be followed.

The Turkish Civil Code envisages three levels of intervention in the parent-child relationship. These levels also indicate which form of intervention is acceptable in which situations. Firstly, precautions should be taken to ensure that the child is protected in the presence of his or her parents. At the second level, the child may be removed from his/her parents and placed in an institution or with a foster family. At the third level, the child is placed under public guardianship and the custody of the parents is terminated. The person authorized to make these decisions is the judge. Both a juvenile judge and a family judge can make these decisions.

If a child is at risk of getting married or being married off, a request for a measure to be taken against him/her must be made to the juvenile judge.

UN Convention on the Rights of the Child

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Constitution of the Republic of Turkey

I. Protection of the family, and children's rights

Article 41

Family is the foundation of the Turkish society and based on the equality between the spouses.

The State shall take the necessary measures and establish the necessary organization to protect peace and welfare of the family, especially mother and children, and to ensure the instruction of family planning and its practice.

Every child has the right to protection and care and the right to have and maintain a personal and direct relation with his/her mother and father unless it is contrary to his/her high interests.

The State shall take measures for the protection of the children against all kinds of abuse and violence.

➤ Measures in the Child Protection Law

Measures that can be taken according to the Child Protection Law include the following:

- 1 **Adolescent consultancy:**³⁴ The first of the measures that can be applied is the consultancy measure. Depending on the case, counseling may be ordered in consideration of the child's needs. The child applying for a marriage permit may be given counseling to explain the responsibilities of marriage and

³⁴ Child Protection Law article 5; Turkish Civil Code article 346

the risks of child marriage. A child who is already married can be offered consultancy on sexual health, available health services support, etc.

- 2 **Parental consultancy:**³⁵ Consultancy measure can also be applied to the parents or caregivers as well as the child. Parents who want to marry off their child may need consultancy on issues such as puberty, adolescent development, adolescent needs, communication with adolescents, adolescent parenting, risks of child marriage, etc.
- 3 **Care measure:**³⁶ If the child is exposed to risks that threaten his/her safety, such as violence or use of force, while he/she is accompanied by his/her parents or caregiver, he/she will need to be taken under protection in another family or institution. Examples may include situations where the child is forced to marry by his/her parents, where the child has no possibility to oppose the decisions or wishes of his/her parents, or where the parents use coercive methods such as threats or physical violence to force the child to accept the marriage.
- 4 **Shelter measure:** It is a measure to provide suitable accommodation for people with children who have no shelter or pregnant women whose life is in danger. It also allows the adult to be protected together with his/her child. In this context, a woman who wants to protect her child against marriage but is subjected to domestic violence can also benefit from this measure together with her child.
- 5 **Health measure:**³⁷ It refers to measures for the protection of the child's physical and mental health and the temporary or permanent medical care and rehabilitation necessary for their treatment, and the treatment of those who use addictive substances. A child at risk of marriage and a child who has been married will have different treatment and medical care needs. Depending on the needs of children, medical support or treatment services may be provided in the areas of reproductive health, sexual health and mental health.

Health, education and consultancy measures are among the measures that can be taken for the protection of the child with his/her parents. It can also be applied together with care or shelter measures. When a care measure is applied, the custody relationship will need to be regulated for both parents, and in a shelter measure, the custody relationship will need to be regulated with the parent who creates the risk that will require the removal of the child. This regulation may be in the form of regulating and limiting personal relationships or in the form of removing custody (Child Protection Law article 7; Turkish Civil Code article 348). If the parents do not maintain the custody relationship in a manner that is in the

³⁵ Child Protection Law article 5; Turkish Civil Code article 346

³⁶ Child Protection Law article 5; Turkish Civil Code article 347

³⁷ Child Protection Law article 5; Turkish Civil Code article 124

best interest of the child as stipulated by the Turkish Civil Code (article 339) and severely neglect their duties towards the child, and if other measures do not yield results, the judge may also decide to remove the custody of the parents. With the removal of custody, it will also be necessary to appoint a legal representative and a trustee. For this purpose, the child may request legal aid from the bar association in the province where he/she resides. The legal relationship between the child and his/her parents should not be terminated unless it is in the best interest of the child, but when it is in the best interest of the child, this relationship should be terminated and the child should be placed under public guardianship. In many cases, this is mandatory. This is because if the custody of the child remains with the mother and/or father who pose a danger to the child after the child is taken into institutional care, the child will be deprived of a legal representative. This situation both causes problems for situations that require representation, such as education and consent to treatment, and eliminates or complicates the possibility of placing the child with another family.

A child who is about to be married off at a young age should not be left alone even when a protection measure has been taken that allows him/her to stay with his or her parents. Considering that a family who has decided to marry off their child may not change their attitude immediately with any intervention, it should be monitored whether the child is safe within the family, whether the necessary measures are implemented and effective.

The procedure envisaged by the Child Protection Law for this purpose is the supervision of decisions for measures. *“The judge may also decide for taking under supervision the juvenile about whom he/she has decided for a protective and supportive measure.”* (Child Protection Law article 7)

In cases where the child stays with his/her parents but needs to be protected against them as well, a supervision decision becomes more important than ever.

When the judge decides to place the child under supervision (Child Protection Law article 36), the responsible authority is the Provincial Directorate of Family and Social Services. The Provincial Directorate appoints a supervision officer to fulfill the supervision order issued by the judge (Child Protection Law article 37). The personal characteristics and needs of the child are taken into consideration when appointing the supervision officer. This person should also be someone who is easily accessible to the child.

The purpose of supervision decisions is to ensure that the protective and supportive measures taken for the child are fulfilled in accordance with the purpose (Child Protection Law article 38). For this purpose, supervision officers are also given the authority to request the change or removal of the measure for to the child (Child Protection Law article 8).

➤ Measures in the Law No. 6284 on the Protection of the Family and Prevention of Violence against Women

There are many reasons behind child marriage and the situation of each child is different. Therefore, in order to combat child marriage, there is a need to utilize the measures provided by different laws together.

If a child is forced to marry or if a child who is already married is subjected to coercion by his/her spouse or family, the measures provided by the Law No. 6284 on the Protection of the Family and Prevention of Violence against Women can be utilized to keep him/her away from these people or environment. Accordingly, protective measures are applied to the victim of violence and preventive measures are applied to the perpetrator of violence (Table-2 and Table-3). In cases of undue delay, some of the measures may also be decided by the law enforcement officer or the local authority. If there is an imminent and serious danger, the victim may also be provided with a place of shelter in the province or elsewhere.

Table 2. Cautionary Measures to be taken for Victims of Violence (Protective Measures) as per the Law No. 6284 on the Protection of the Family and Prevention of Violence against Women

A case of undue delay is a case where the delay in the implementation of the measure may jeopardize the realization of the purpose of the law.

PROTECTIVE MEASURES	Law Enforcement	Civil Authority	Judge
To provide an appropriate shelter in the vicinity or in some other location.	X	X	
To provide temporary financial aid		X	
To provide psychological, professional, legal and social guidance and counseling services.		X	
To provide a temporary protection upon a request of the relevant person or ex officio if there is a life threatening danger for the person.	X	X	
To provide daycare for children		X	
To change the workplace			X
To decide a house settlement different from the shared one if the person is married.			X
To put an annotation to the title deed as a family house (if the conditions are applicable as contained within the Turkish Civil Code no.4721 and upon the request of the protected person)			X
To change the identification and other related information and documents			X

Table 3. Cautionary Measures to be taken for Perpetrators of Violence (Preventive Measures) as per the Law No. 6284 on the Protection of the Family and Prevention of Violence against Women

PREVENTIVE MEASURES	Law Enforcement	Judge
Not to exhibit an attitude and behaviors including the threats of violence, insult and humiliation against the victim of violence	X	X
To move from the shared dwelling or the vicinity immediately and to allocate the shared dwelling to the protected person	X	X
Not to approach to the protected persons and their residences, schools and workplaces	X	X
To have a personal connection with the children together with a company and to restrict the personal connection or to revoke it completely	X	X
Not to approach the friends or relatives and children of the protected person if deemed necessary		X
Not to damage the personal belongings and household goods of the protected person		X
Not to cause distress to the protected person		X
To hand over the officially permitted and authorized weapons to the law enforcement officials		X
Not to use alcohol, drugs or stimulants and to have a medical examination and treatment including in-patient treatment in case of the addiction		X
To apply to the health center for examination or treatment and to ensure having a treatment		X

In addition, an investigation may be initiated against the perpetrator of violence, and depending on the type of violence, criminal proceedings may be initiated for criminal acts such as threats, injuries, insults, etc.

Table-4 summarizes the procedure to be followed in cases of forced marriage or any other form of child exposure to domestic violence.

Table 4. The Processes Following Notification as per the Law No. 6284 on the Protection of the Family and Prevention of Violence against Women³⁸

Receipt of the notice or request	Anyone who sees a child being forced into marriage or subjected to domestic violence should report it to the competent authorities (see Section 4.1)
Taking protective and preventive measures by law enforcement	Upon receiving such a notification or application, the law enforcement agency shall immediately take protective and/or preventive measures or report the situation to the local authority authorized to take such measures and the public prosecutor's office. Law enforcement agency must notify the public prosecutor's office also for initiating an investigation, and should collect evidence of the crime committed against the child in line with the instructions of the public prosecutor.
Approval of the civil authority/ judge	Protective measures taken by the law enforcement authorities shall be put into practice on the date they are taken and shall be submitted to the approval of the civil authority within the following working day. Preventive measures shall be submitted for the approval of the judge within the same period. If not approved by the relevant authority within 24 hours, the cautionary decision shall lapse.
Notification of the decision to take a measure	Approved decisions for measures shall be notified to the addressee face to face or in written. When notifying the preventive measure decision, a warning should also be made that its violation is a reason for arrest.
Investigation of the act	<p>Violent acts constitute a crime (such as wounding, insult). Sometimes these acts are accompanied by other criminal acts such as possession of weapons or use of drugs or stimulants. The investigation of these offenses is carried out according to the general provisions. This rule has two important effects:</p> <ol style="list-style-type: none"> 1. The public prosecutor's office must be notified immediately for investigation related procedures. 2. Even if protective and preventive measures have been taken within the framework of the Law on the Protection of the Family and Prevention of Violence against Women, protection measures such as seizure and arrest may also be taken during the investigation phase for the collection and protection of evidence. Similarly, in cases where drug use constitutes a crime, probation measures can also be applied.
Taking measures to protect the victim and prevent violence	<p>1. Confidentiality order</p> <p>When a confidentiality order is issued, the identification information of the protected person or other family members or the information to reveal their identification, their addresses and the other information important for the efficiency of protection shall be kept confidential within records. The Law on the Protection of the Family and Prevention of Violence against Women stipulates that the relevant provisions of the Turkish Criminal Code (Article 258) shall apply to the person who illegally gives, reveals and discloses the information to somebody else.</p>

³⁸ UNFPA (2021) "Legal Information Guide on Prevention of Child, Early and Forced Marriages" p.43

2. Delivery of belongings by law enforcement

Another action to be taken by the police at this stage is to ensure that the victim has the personal belongings and documents necessary for her/his daily life. Upon the request of the victim of violence, the delivery of personal belongings and documents to the relevant persons is ensured through law enforcement.

3. Determining the place of residence

The law enforcement unit is responsible and authorized to implement the protective cautionary decision on providing a temporary protection and the preventive cautionary decision taken for the perpetrator of violence and to protect the residential area of the protected persons or its location or the place where the measures shall apply.

4. Shelter measure

On the occasion when the cautionary decision is taken and implemented by the law enforcement chief or when the protected person is in the police station, the person is taken off to the provincial or district directorates of the Ministry of Family and Social Services. If this is not possible, temporary shelter is provided to the person and her company by covering the expenses from the Ministry's related budget allocation. If this is also not possible, the protected persons are sheltered in the social facilities, dormitories or similar lodgings of the state institutions and organizations upon a request of district authority.

Arresting the person who violated the preventive measure order

If the perpetrator of violence violates the preventive cautionary decision issued in accordance with the provisions of the Law on the Protection of the Family and the Prevention of Violence against Women, he/she shall be subjected to compulsory imprisonment from three days to ten days.

The decision of compulsory imprisonment is made by the judge, depending on the nature and severity of the violated measure. If the violation is repeated, this period may be extended from 15 days to 30 days. But the period of the preventive imprisonment cannot be more than six months.

The decisions regarding to the preventive imprisonment are taken by the public prosecutor. These decisions are notified to the provincial and district directorates of the Ministry of Family and Social Services.

5

Reporting Crimes Related to Child Marriage



If you want to make a criminal notification about child marriage, having an idea of who you will to accuse and what you will to accuse them of plays an important role in the judicial authorities taking the notification seriously and starting an investigation.

The acts of marrying a child, mediating a marriage and marrying a child may each involve multiple and different offenses. There may also be more than one suspect.

One of the biggest obstacles in practice is that child marriage is only seen as a crime against sexual immunity. When child marriages are concerned, there may not always be crimes against sexual immunity, or there may be many other crimes committed. For this reason, when reporting a crime, it would be useful to know the types of crimes that can be committed in this context and to report accordingly by considering which of these may occur in the incident.

Table-5 shows the possible perpetrators and acts for investigations on child marriages. This should be considered as a sample table and it should be considered that these acts may also be accompanied by crimes that are not foreseen here at all.

For example, in some cases, children are married off in exchange for money or taken from one place to another to be married off. In cases where a child is taken from one place and taken to another place to be married to a person he/she does not know, or in cases where children who have come to Turkey as refugees, asylum seekers, etc. are married to adults, it should also be paid attention to whether this transaction is carried out in exchange for money or other benefits.

Marriage of a child in exchange for money not only means that the child is subject to human trafficking, but also gives an idea about the risks of the environment in which the child is living. Therefore, this possibility must be taken into account and if such a risk is found, the child's safety must be ensured through urgent protection measures. Paying bride price should also be considered in this context.

Table 5. Crimes and Suspects that may be Subject to Investigations Regarding Child Marriage under the Turkish Criminal Code (TCC)

Possible Suspects	Possible Crimes
Parent or guardian of the child	<ul style="list-style-type: none"> - Threat, blackmail (TCC article 106-107) - Prevention of education and training (TCC article 112) - Solicitation or encouragement of a person to commit crimes of child molestation or sexual intercourse with a person not attained the lawful age (TCC article 38-39) - Breach of the duties of protection, observation, assistance and Notification (TCC article 97-98) - Human trafficking (TCC article 80) - Ill-treatment (TCC article 232) - Breach of obligations derived from family law (TCC article 233) - The provisions related to involvement in the crimes, such as solicitation or encouragement of other perpetrators in the table to commit a crime, as regulated by article 38 and article 39 of the TCC, may also be applied in relation to the parent or guardian.
Person who marries a child	<ul style="list-style-type: none"> - Child molestation (TCC article) - Sexual intercourse with a person not attained the lawful age (TCC article 104) - Polygamy, marriage by deception and religious ceremonies (TCC article 230) - Human trafficking (TCC article 80) - Deprivation of liberty (TCC article 109)
Participants in celebrations such as weddings etc.	<ul style="list-style-type: none"> - Failure in notification of an offence (TCC article 278)
Relatives, neighbors and others who have the knowledge of a child who has been married off	<ul style="list-style-type: none"> - Failure in notification of an offence (TCC article 278)
Public officials including teachers, doctors, etc.	<ul style="list-style-type: none"> - Failure in notification of an offence (TCC article 279-280)

For example, in the joint general recommendation of the United Nations Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women, it is stated that traditional practices such as bride price should be considered a crime of trafficking in persons as regulated by Article 2.a of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography:

“The payment of dowries and bride prices, which varies among practising communities, may increase the vulnerability of women and girls to violence and to other harmful practices. The husband or his family members may engage in acts of physical or psychological violence, including murder, burning and acid attacks,

for failure to fulfil expectations regarding the payment of a dowry or its size. In some cases, families will agree to the temporary “marriage” of their daughter in exchange for financial gains, also referred to as a contractual marriage, which is a form of trafficking in human beings. States parties to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography have explicit obligations with regard to child and/or forced marriages that include dowry payments or bride prices because they could constitute a sale of children as defined in article 2 (a) of the Protocol.”

Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography

Article 2

For the purposes of the present Protocol:

(a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration.

...

Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime defines “trafficking in persons” as “recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.” It is also stated that the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a).

Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

Article 3

For the purposes of this Protocol:

(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) "Child" shall mean any person under eighteen years of age.

At the same time, it should be noted that article 37 of the Council of Europe (Istanbul) Convention on Preventing and Combating Violence against Women and Domestic Violence requires state parties to include within the scope of their authority to investigate and prosecute such crimes committed outside their borders.

Council of Europe (Istanbul) Convention on Preventing and Combating Violence against Women and Domestic Violence

Article 37 - Forced marriage

Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of forcing an adult or a child to enter into a marriage is criminalised. 2 Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of luring an adult or a child to the territory of a Party or State other than the one she or he resides in with the purpose of forcing this adult or child to enter into a marriage is criminalised.

Similarly, the Lanzarote Convention (Article 25) requires States Parties to extend their jurisdiction and it is requested to apply a rule of territorial jurisdiction to ensure that if a citizen of the Republic of Turkey commits an act that is considered as child sexual abuse by national legislation is investigated even if the act is committed in a foreign country where it is not considered as a crime. For this reason, a person who is a citizen of the Republic of Turkey should not be able to say, "Girls can get married at the age of 13 in Syria, I got married there." The aim of these rules is not to leave a gap in the effective fight against child sexual abuse and to ensure a common understanding all over the world.



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