SEASONAL AGRICULTURAL WORK AND CHILDREN
PROBLEM ANALYSIS & POLICY RECOMMENDATIONS

2nd EDITION

INTERVENTION PROGRAM FOR CHILDREN (6-14 AGE GROUP)
AFFECTED BY SEASONAL AGRICULTURAL MIGRATION
SEASONAL AGRICULTURAL WORK AND CHILDREN
PROBLEM ANALYSIS & POLICY RECOMMENDATIONS
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ABBREVIATIONS

ILO: International Labour Organisation

METIP: Project for Improving the Working and Social Lives of Seasonal Migratory Agricultural Workers

MFSP: Ministry for the Family and Social Policies

MoLSS: Ministry of Labour and Social Security

MoNE: Ministry of National Education

SHCEK: Social Services and Child Protection Agency (superseded)

TURKSTAT: Turkish Institute of Statistics
This policy paper, prepared by the Development Workshop, discusses the different dimensions of seasonal agricultural work and presents recommendations for measures and interventions to reduce its negative impact on children.

Seasonal agricultural work is an important policy issue. It is observed in many provinces of Turkey. Directly or indirectly it affects hundreds of thousands of children nationwide. Its short-term and long-term effects on children are significant. Seasonal agricultural work is also an issue that requires an urgent solution. The problem has not improved by itself; on the contrary, it has been deteriorating. Following the recent extension of the duration of mandatory education to 12 years, seasonal agricultural work now creates a barrier to accessing mandatory education for an even greater number of children. Less than three years remain if the Government is to achieve its target of eradicating the worst forms of child labour, including migratory and temporary child labour in agriculture, by 2015.

The Development Workshop recommends that the following policies and interventions are prioritized in order to address this important and urgent problem and to reduce the adverse affects of seasonal migratory labour on children:

**Identification of gaps in current legislation and adoption of the necessary changes:**

Changes need to be made in labour and education legislation in the following priority areas: (i) ensuring that the relevant regulations concerning agricultural labour are applicable to small and medium enterprises, (ii) introducing effective sanctions for agricultural intermediaries with respect to their responsibilities for the working conditions of workers, (iii) incorporating clear and open prohibitions in relevant legislation, especially the regulation concerning child labour in heavy and hazardous work, to ensure that children are not a part of the seasonal agricultural work force, (iv) amending labour and education legislation in...
light of the recent extension of the duration of mandatory education to 12 years, so that agricultural work does not prevent children from attending mandatory schooling.

→ Establishment of necessary systems and mechanisms for the implementation of legislation and inspection:

The priority areas in this regard are: (i) to inform MoLSS provincial offices, employment boards, and provincial and district seasonal migratory agricultural workers monitoring boards of the legal framework and inspection priorities concerning child labour in seasonal agriculture, (ii) to ensure that local decision makers and implementation units speak with one voice and give a consistent message about child labour in seasonal agriculture, (iii) to inform land owners, employers, agricultural intermediaries and agricultural worker families about relevant regulations and about the consequences of not abiding by these regulations, including the administrative penalties they may incur, (iv) to respond to the considerable fluctuations in the burden of inspection caused by the seasonal nature of the activity by establishing temporary inspection teams comprised of representatives of the provincial offices of relevant public institutions and local NGOs, (v) to collect regular data on seasonal agricultural workers, including those that are migratory, through the development of an additional module for the agricultural enterprise registration system, and to ensure collaboration between MoLSS and TURKSTAT to obtain detailed data on seasonal agricultural workers and their families, in parallel with the periodic data, as well as to implement the Regulation for Agricultural Intermediaries more effectively, so as to ensure the registration of the agricultural labour force.

→ Design of essential social and economic interventions and their implementation in all relevant provinces:

- With respect to increasing employment opportunities in those provinces that are most commonly affected by seasonal agricultural emigration: (i) to support those enterprises that carry out labour intensive production more effectively, (ii) to ensure the widespread implementation of programs geared towards developing the vocational skills of migratory agricultural workers and providing micro-credit, and (iii) to take measures to currently idle agricultural land;

- With respect to improving the regulations concerning wages and social security in seasonal agricultural work: (i) to ensure that all seasonal agricultural workers receive a net daily wage not less than the official minimum wage; (ii) to make legislative arrangements to ensure that representatives of at least two labour unions are represented on all provincial and district seasonal migratory agricultural workers monitoring boards, and (iii) to amend the Law on Social Security and General Health Insurance to mandate the payment of insurance premiums by the employer for the duration of work of the seasonal agricultural workers and to enable the state to subsidise a percentage of the premium, and to add an article to the generic contract of seasonal agricultural workers to reflect these changes;
To plan the measures needed to improve the working, travel and living conditions of the seasonal agricultural work force and to provide social assistance, and at the same time: (i) to enhance the qualitative and quantitative capacity of the implementing provincial offices, (ii) to allocate sufficient resources from the general budget for these purposes, and (iii) to evaluate the work done systematically in terms of coverage and impact;

In order to ensure that all children attend pre-school and 12 years of mandatory education: (i) to expand the scope of the MoNE circular concerning the children of seasonal agricultural workers, (ii) to allocate adequate financial resources to affected schools and to the provincial offices of MoNE and MFSP for the implementation of the measures foreseen in the circular, (iii) to ensure that the human resources in the social services and education sectors, especially teachers, are sufficiently competent, qualified and willing, and to this end to increase the number and improve the quality of human resources in the education and social services sectors in all affected provinces, and (iv) to ensure that MoNE and MoLSS work together and use the existing e-School system to monitor systematically at the level of the individual child;

To identify, through collaboration between MoNE and MFSP, the necessary and appropriate measures to be taken to prevent seasonal agricultural migration from having detrimental effects on the physical, cognitive and emotional development of young children who are in the most crucial phase of their development, and to ensure that the provincial offices implement these measures without further delay. In this respect: (i) priority should be given to institution-, family- and community-based child development programs in the places where migratory agricultural workers are accommodated, and (ii) child care services should be provided free of charge to the children both of migratory and of local agricultural workers during the working hours of their parents.

Strong political and bureaucratic commitment will be essential if these policies and measures are to have sustainable results. Seasonal agricultural work and its effects on children are a multi-dimensional issue and one that affects a large population. Short-term projects and temporary interventions cannot heal such a deep wound. In order to ensure significant and sustainable progress, it is necessary to develop a national policy backed by adequate funding and, most importantly, a solid commitment, and to mobilise all public institutions for its effective implementation.
Approximately one-fourth of employment in Turkey is in agriculture.¹ The ratio is 48%² for women and 41% for children.³ 527,000 people, or about 8% of all those employed in agriculture, indicate that they are regular or casual employees.⁴ Due to the nature of agricultural activity, employment in this sector fluctuates with the seasons and the seasonal increase in labour demand is met by a seasonal migratory or local labour force.⁵ According to official estimates, close to 300,000 people leave their actual areas of residence and migrate to other areas to work as seasonal and migratory agricultural workers during certain periods of the year.⁶ The number of local seasonal agricultural workers - that is, those who participate in the agricultural labour force in their own area of residence as paid or casual workers - is unknown.

¹ According to the data in Table 6.6 in the Summary of Agricultural Statistics for the Household Labour Force Survey (HLS) conducted in 2010 by TURKSTAT, this percentage is 25.2%. According to the weighted calculations conducted for this policy paper by Gökçe Uysal based on data from the same survey, the percentage is 28.4%.
² Weighted calculations based on data from the HLS 2010 survey conducted for this policy paper by Gökçe Uysal.
³ TURKSTAT (2007), Working Children 2006, Table 3.4. This survey is the most recent survey conducted at the national level concerning child labour.
⁴ TURKSTAT (2010), Summary for Agricultural Statistics, Table 6.6.
⁵ Although the terms migratory agricultural worker and local agricultural worker are not used in official statistics, this differentiation is made in many studies and reports prepared on the topic in Turkey.
⁶ Data shared by the Ministry of Labour and Social Security (MeLSS) based on figures declared by Governorships in 2011.
SUBJECT AND PERSPECTIVE OF THE POLICY PAPER

Prepared as part of the Development Workshop’s activities on this issue, this policy paper discusses the impact of seasonal agricultural work on children and opens for debate a set of recommendations for measures and interventions to reduce its adverse effects. The direct and indirect effects of seasonal agricultural work on children vary according to the nature and conditions of the work:

- children working as seasonal local workers in their region/locality of residence
- children participating in seasonal agricultural migration together with their families and who are seasonal migratory agricultural workers
- children participating in seasonal agricultural migration together with their families and who carry out domestic chores in the home/tent
- children participating in seasonal agricultural migration together with their families but who do not work
- children whose families participate in seasonal agricultural migration but who themselves do not migrate and instead remain in their ordinary place of residence.

This policy paper is concerned primarily with children who are seasonal migratory agricultural workers and secondarily with children who are seasonal local agricultural workers. These priorities reflect the multiple rights violations experienced by these children and the legal aspect of the issue.

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7 It was a study on seasonal agricultural child labour, conducted in 2002, which brought the founders of the Development Workshop together. Ever since its establishment the Workshop has given priority to activities related to seasonal agricultural work and children. As part of a new project that began on 15 July 2011, field studies have been undertaken covering four provinces and products, action plans have been prepared for each of the four products, and this policy paper has been prepared. The main author of this policy paper is Özsel Beleli, one of the partners of the Development Workshop Cooperative.

8 Many children, especially girls, who work as migratory agricultural workers also carry out domestic chores in the house/tent. This issue is discussed further in later sections of the policy paper.

9 While migratory agricultural work affects the welfare both of the children who migrate with their families and of those children who are left behind, this policy paper focus on those children who migrate, based on the assumption that they are exposed to more adverse conditions. No research has been found concerning the effects of seasonal migration on the living conditions of children who are left behind; a separate study should be conducted on this matter.
The employment of children (individuals who are below the age of 18\(^{10}\)) is subject to several conditions under national and international law. In Turkey, “it is prohibited for children under the age of 15 to work; however, children who have reached the age of 14 and who have completed their primary education may work in light jobs which are not detrimental to their physical, mental and moral development if it does not impede the continuation of their education.”\(^{11}\) In certain types of work, it is prohibited to employ children who have reached the age of 15 but have not yet reached the age of 18; for other types of work, in which children in the age group in question may be employed, their employment is subject to special regulations.\(^{12}\) In addition, seasonal migratory and temporary paid agricultural child labour (excluding agricultural labour in family enterprises) has been identified as one of the worst forms of child labour which is prioritised for intervention in the “Time Bound Policy and Program Framework for the Prevention of Child Labour” prepared by the Ministry of Labour and Social Security with the contributions of all related parties under the framework of the International Labour Organisation (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.\(^{13}\)

Although agriculture encompasses both farming and animal husbandry, this policy paper focuses on the agricultural labour in farming. There remains a need for additional studies on child labour in animal husbandry and forestry.

As the Development Workshop, our basic premise is that the state is the primary duty-bearer for the protection and promotion of the rights of every child, including education, health and development;\(^{14}\) thus, the state has been regarded as the main implementer of all measures and interventions that may be taken or implemented. In this light, the organisation and inspection of seasonal agricultural work in ways that do not breach the basic rights of children and adults is possible only if central and provincial authorities show strong commitment.

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\(^{10}\) This definition of “child” is based on Article 3.(1)a of the Child Protection Law No. 5395 in national law and on Article 1 of the Convention on the Rights of Child in international law. Turkey ratified this Convention on 9 December 1994.

\(^{11}\) Labour Law No. 4857 (Article 71).

\(^{12}\) The main pieces of national legislation concerning the minimum age of employment and employment of children are: Labour Law No. 4857 (Articles 71 & 85), Basic Education Law No. 222 (Article 58), Regulation for Procedures and Principles regarding Child and Youth Labour (Annex 1 & 3), Regulation on Heavy and Hazardous Work (Article 1 & 4, Annexes). The main international regulation on the minimum age of employment which has been ratified by Turkey is ILO Convention No. 138 on Minimum Age for Admission to Employment and Work(Articles 2, 3 & 7).

\(^{13}\) The other types of work defined in the Time Bound Policy and Program Framework as worst forms of child labour are working on the street, and working in heavy and hazardous work in small and medium sized enterprises.

\(^{14}\) The main legal basis for the state’s responsibility to protect and promote the rights of children, especially those related to education, health and development, is the Convention on the Rights of the Child, ratified by Turkey on 9 December 1994. The following articles of the Convention are particularly relevant to the issues addressed in this policy paper: Article 24 regarding the right to health, Article 27 regarding the right to development, Article 28 regarding the right to education and Article 32 regarding child labour.
IMPORTANCE OF THE ISSUE

The importance of the issue of seasonal agricultural work and children stems in part from the prevalence of seasonal agricultural work across the country. Seasonal agricultural work is not an issue that affects only a few provinces. According to official estimates, there are 19 provinces that receive more than 5,000 migratory agricultural workers, and 11 provinces from where more than 5,000 agricultural workers leave seasonally. These figures do not include those provinces where there are only local seasonal agricultural workers.

The large number of people affected by seasonal agricultural work is another reason for its importance. While the total number of people participating in seasonal agricultural migration is unknown, it is estimated that among the migrants approximately 300,000 people are migratory workers. Based on this figure, it is not unrealistic to claim that about half a million people are affected by seasonal agricultural migration. When those who work as seasonal agricultural workers in their place of residence without migrating are included in the overall figure, the total number of people affected could be as high as one million. Accordingly, the number of children who are affected directly or indirectly by seasonal agricultural work could be as high as hundreds of thousands.

Just as significant as the large numbers of children affected by seasonal agricultural work is the magnitude of its adverse effects on children. This also contributes to the importance of the issue. When children work as paid workers in seasonal agricultural work or when they seasonally migrate with their families, they face major and immediate risks to their education, development and health. These children may end up dropping out of school, may become injured in accidents and may even lose their lives. Additionally, poor living conditions, heavy working conditions and malnutrition may lead to temporary or chronic health problems.

The unfavourable conditions to which these children are exposed, especially with respect to their health and education, can lead to irreversible damage in the long term. Dropping-out of education may result in the continuation of poverty and deprivation, while the poor shelter and working conditions that a child is exposed to during seasonal migration can lead to life-long chronic health problems. Similarly, working as an agricultural labourer or participating in seasonal agricultural migration increases the child’s vulnerability to violence, neglect, abuse and social exclusion, and this in turn may adversely affect his/her emotional and social development.

Ultimately, the state has a duty to fulfil its commitment to eliminating child labour and particularly the worst forms of child labour, and to protecting the rights of children. This policy paper aims to contribute to the state’s efforts to fulfil its duty to address a problem whose adverse effects are extremely prevalent and deep-rooted.

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15 The fact that there is no reliable, up-to-date and comprehensive data on such an important topic, and that public agencies have no plans to collect data systematically, suggest that the public authorities are not paying sufficient attention to the matter - a situation which exacerbates the severity of the issue.
URGENCY OF THE ISSUE

Neither seasonal agricultural work nor the adverse effects of seasonal agricultural work on children are new phenomena. However, for a number of reasons, it is today more urgent than it has ever been to take measures and implement interventions for addressing them:

→ With the duration of mandatory education increasing from eight years to twelve in 2012, seasonal agricultural migration will now be hindering the mandatory school attendance of many more children. The conditions for the employment in seasonal agricultural work of those who have not yet completed their secondary education must therefore be prescribed by the state as soon as possible in order to ensure that there is no violation of their right to education. Similarly, the state must urgently take the necessary steps to alleviate the barriers to regular school attendance faced by children who participate in seasonal agricultural migration even though they may not be a part of the labour force.

→ The Time Bound Policy and Program Framework for the Prevention of Child Labour prepared by the Ministry of Labour and Social Security in line with ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour aims to eradicate all paid agricultural labour in migratory and temporary agricultural work for children - that is, all individuals under the age of 18 - by 2015, on the grounds that this is one of the worst forms of child labour.\(^{16}\) In this context, the necessary measures need to be taken and crucial interventions need to be made urgently.

→ The fact that the number of agricultural workers is increasing in Turkey\(^{17}\) suggests that the problems in seasonal agricultural work will not disappear as a result of macro economic and technological trends. Accordingly, one can assume that the adverse effects of seasonal agricultural work on children will not diminish on their own, and that an increasing number of children may come to be affected. Taking the necessary measures to protect the rights of children before the problems deteriorate further is therefore a matter of pressing concern.

→ Public institutions and local administrations are more ready than they have ever been

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\(^{17}\) TURKSTAT (2010), Summary of Agricultural Statistics, Table 6.6.
to take the necessary action to reduce the adverse affects of seasonal agricultural work on children. With respect to the legislative basis, some important regulations, such as the Regulation for Agricultural Intermediaries, are already being implemented, and the groundwork for further strengthening the legal basis has already been laid. With respect to technology, the establishment of an agricultural enterprises registration system is an important opportunity for regulating and inspecting seasonal agricultural work. Most importantly, the Project for Improving the Working and Social Lives of Seasonal Migratory Agricultural Workers, which began in 2010, has led to the acquisition of experience about various measures targeting seasonal migratory workers, as well as an increased level of awareness about the issue at both the central and local levels. In other words, the foundations on which future interventions can be constructed have already been laid.

More generally, reducing the adverse effects of seasonal agricultural work on children, can be seen as a kind of test for Turkey to pass as it moves from being a developing country to being a developed one.
**TERMINOLOGY AND DEFINITIONS**

**Child:** All persons under the age of 18 (Convention on the Rights of the Child); any person who has not yet completed the age of 18 (Child Protection Law)

**Child Labour:** Child labour, working children and child labour force are different terms. According to the most recent resolution of the International Labour Organisation concerning child labour statistics, child labour includes engaging in light work before reaching the minimum age set for light work, engaging in work that is not categorized as either light or as heavy and hazardous before reaching the minimum age set for this kind of work, engaging in heavy and hazardous work before reaching the minimum age set for heavy and hazardous work, working in the worst forms of labour, and engaging in heavy and hazardous domestic work. The Convention on the Rights of the Child guarantees every child’s right to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.

In the case of Turkey; according to Articles 71 and 85 of the Labour Law No. 4857, it is prohibited to employ children who have not reached the age of 15. The scope of child labour includes children who are 14 years old and have completed their primary education and who are engaged in work that is not considered light work, children under 16 years old who are engaged in certain types of heavy and hazardous work, children under 18 years old who are engaged in other kinds of heavy and hazardous work, and children who are under 18 years old engaged in any one of the worst forms of child labour.

**Worst Forms of Child Labour:** The International Labour Organisation’s (ILO) Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour defines the worst forms of child labour as: (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and servitude and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. Based on article (d) and building on the rest of the Convention, MoLSS has included the following among the worst forms of child labour in Turkey: working on the street, working in heavy and hazardous work in small and medium-sized enterprises, and paid employment in migratory and temporary agricultural work, excluding family work.

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18 ILO (2009), Resolution Concerning Statistics of Child Labour.
Heavy and Hazardous Work: According to ILO documents, this consists of all work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of children. In the case of Turkey, the MoLSS has not provided a general definition but has instead prepared a list of all work that falls under this category in an annex of the Regulation on Heavy and Hazardous Work.

Light Work: According to the Regulation on the Procedures and Principles for Employing Child and Youth Labour, light work, by its nature and characteristics, and the special circumstances in which it is carried out, is work that: a) does not have a negative impact on the development or the health and safety of the child, and b) does not hinder the child from attending school, or from participating in and benefiting from vocational education or a training program approved by the relevant authorities.

Child and Young Workers in Agriculture: According to ILO documents, child workers in agriculture are all individuals who have not yet reached the age of 18 and are engaged in work which constitutes child labour in agriculture. According to the Regulation on the Procedures and Principles for Employing Child and Youth Labour of MoLSS, a child worker is a person who has reached the age of 14 but is not yet 15 and has completed primary education; and a young worker is a person who has reached the age of 15 but who is not yet 18 years-old. This policy paper uses the international definition of child worker in agriculture.

Seasonal Agricultural Worker: While there is no official definition of this term, in this report it is used to indicate a person who takes part for at least one day, but not continuously, in the production processes of farming, husbandry, beekeeping, forestry, or fishery with the aim of earning an income.

Seasonal Local Agricultural Worker: While there is no official definition of this term, in this report it is used to indicate a person who, without leaving his or her place of residence, takes part for at least one day, but not continuously, in the production processes of farming, husbandry, beekeeping, forestry, or fishery with the aim of earning an income.

Seasonal Migratory Agricultural Worker: While there is no official definition of this term, in this report it is used to indicate a person who leaves his or her place of residence and takes part in another place for at least one day, but not continuously, in the production processes of farming, husbandry, beekeeping, forestry, or fishery with the aim of earning an income.

19 ILO Convention No. 138, Article 3(1).
In this section of the policy paper, a number of key issues concerning seasonal agricultural work and its adverse effects on children will be discussed. It is crucial to keep these key issues in mind while developing and implementing policy recommendations, as they are indispensable for the success of any policy measure or intervention.

MULTIPLE BUT INADEQUATE LEGAL ARRANGEMENTS

The number of legal regulations enacted during the last 10 years concerning agricultural labour and child labour is worth noting. Examples are the Regulation on the Procedures and Principles for Employing Child and Youth Labour, the Regulation on Heavy and Hazardous Work, and the Regulation on the Working Conditions in Work Deemed to be Agriculture and Forestry, which came into effect in 2004, and the Regulation for Agricultural Intermediaries, which came into effect in 2010 (For a list of all relevant legal documents, see Annex 1). In addition to these regulations, child labour in paid migratory and temporary agricultural work, excluding family work has been identified as one of the worst forms of child labour in Turkey and the Time Bound Policy and Program Framework has been prepared to eradicate the worst forms of child labour by 2015. The Prime Ministry Circular No. 2010/6 on the Improvement of the Working and Social Lives of Seasonal Agricultural Workers published in the Official Gazette on 24 March 2010, and the Circular of the General Directorate of Basic Education of the Ministry of National Education dated 20 April 2011 concerning the “Education of Seasonal Migratory Agricultural Workers’ Children” can also be included among the relevant legal documents. Despite these legal regulations and various planning efforts, it cannot be argued that an adequate and effective legal framework exists either for seasonal agricultural work in general or for the employment of children as seasonal agricultural workers. The most problematic issues with respect to the current legislation are as follows:
The most important piece of legislation regarding the working conditions of agricultural workers is the Regulation on Working Conditions in Work Deemed to be Agriculture and Forestry. The regulation is legally binding for employers and employees of workplaces or enterprises where agricultural and forestry work is carried out, but only if the workplace or the enterprise has 51 or more employees. In other words, there is no legislation regulating the working conditions of workers, including seasonal ones, who are employed by enterprises that employ fewer workers than the indicated number - or workers who do not have an employment contract. In Turkey, only 4.8% of the people who indicate that they are working in the agricultural sector are in workplaces or enterprises that employ 51 or more workers. With respect to the working conditions of agricultural workers, it is also worth noting that Turkey has not yet ratified ILO Convention No. 184 concerning Health and Safety in Agriculture.

The most important legislation regarding social security for seasonal agricultural workers is the Additional Article 5 appended to the Social Security and General Health Insurance Law No. 5510 on 1 March 2011. This additional article has made it possible for those working under temporary contracts to be insured (workplace accident and vocational illness insurance, disability, old age and death insurance, general health insurance). While this additional article can generally be seen as a positive development for the social security of seasonal agricultural workers, the fact that the article expects the workers to pay for their own premiums diminishes its positive impact. It is only to be expected that seasonal agricultural workers, most of whom live below the poverty and hunger lines, will not be able to afford to pay social security premium and will thus remain uninsured.

The scope of the current legislation regulating the wages of seasonal agricultural workers is limited and the sanctions for its violation are insufficient. The amount agreed upon by the employee, the intermediary and the employer is considered as the basis with respect to the daily wage. Given that many workers are not represented by a labour union and they have limited choice with respect to alternative sources of income, workers are inevitably the weaker party in the wage negotiations. The main regulation with respect to daily wages is the Regulation for Agricultural Intermediaries, which states that the agricultural intermediary guarantees that the daily gross earning of a worker is not below the minimum wage in the Labour Law. However, no administrative or criminal penalties are currently in place for cases where the intermediary fails to fulfil this condition.

20 TURKSTAT (2011), Household Labour Force Statistics 2010; Table 3.12 "Employment according to size of workplace and economic activity, 2010”.

21 According to the results of the Agricultural Enterprises (Household) Income Structure Survey conducted by TURKSTAT in 2011, Table 1.5 showing the percentage of expenditure and number of workers taking advantage of the opportunities provided to the seasonal and regular agricultural workers showed that 0.02% of seasonal workers had agricultural social security and none were insured under the state social security system. The percentages for regular workers were 5.84% and 15.47% respectively. In assessing these percentages, it should be taken into consideration that seasonal agricultural workers are able to be insured by the state social security system since 2011.
Another piece of legislation that relates to the wages of seasonal agricultural workers specifically addresses disputes related to wages and payment that may arise between employer, employee, and intermediary. The Prime Ministry Circular regarding METIP stipulates that any such disputes are to be resolved by the provincial and district seasonal migratory monitoring boards. A review of the decisions taken by the boards, however, shows that the wage rates set by the boards are not binding and are simply used as an indicative figure, and is determined based on the official minimum wage. The same Prime Ministry Circular also states that the provincial and district seasonal migratory monitoring boards are to be comprised of representatives of relevant provincial and district level offices and institutions, employees, intermediaries, and employers (land owners/producers). This structure makes it difficult for the demands and rights of seasonal agricultural workers, who are generally not unionized, to be taken sufficiently into consideration.

→ Within the framework of ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, one of the three worst forms of child labour in Turkey has been identified as paid employment in migratory and temporary agricultural work, excluding family work. However, the two main pieces of secondary legislation regulating the implementation of the articles of the Labour Law No. 4857 related to child labour (Articles 71 and 85) – namely, the Regulation on the Procedures and Principles for Employing Child and Youth Labour, and the Regulation on Heavy and Hazardous Work - contain no clear and comprehensive prohibition of the employment of children as paid workers in migratory and temporary agricultural work excluding family work.

The Regulation on the Procedures and Principles for Employing Child and Youth Labour defines a “child worker” as a person who has reached the age of 14 but is not yet 15 years old and who has completed primary education. Within this framework, work that is defined as light work and thus deemed appropriate for a “child worker” includes “harvesting of fruit, vegetables and flowers that poses no risk of falling or injury”.

According to the Regulation on Heavy and Hazardous Work, the only forms of heavy and hazardous work in agriculture and animal husbandry that are prohibited for those under the age of 18 are “work related to the use of agricultural chemicals” and “fishing, collection and production of fish, other animals and plants in the sea, lakes and rivers (and other products or side products in this scope) and work in weirs”. Among the forms of work in which child and young workers may not be employed, there is no direct reference to children working as paid labourers in migratory and temporary agricultural work. The regulation does list “tasks that require labouring in extreme heat and cold environments and those that require the use of substances that are detrimental to health and may lead to vocational illnesses”, “work paid based on piece work and premiums/commission”, and “work in which it is not possible to return home or to one’s family afterwards” as forms of work in which child and young workers may not be employed. It could be argued that migratory and temporary agricultural work falls into these categories. However, such a subjective legal definition that is so open to interpretation is clearly bound to create problems in practice.
Although the Regulation for Agricultural Intermediaries is an important legal step towards ensuring the registration of seasonal agricultural workers, the effectiveness of the regulation is significantly compromised by the fact that no administrative or criminal sanctions are prescribed for intermediaries who fail to fulfil their responsibilities under Article 11, which relates to the signing of contracts, wages, transportation and shelter conditions.

With respect to legislation on education, the Basic Education Law No. 222 states that children who are of primary education age but who do not attend school cannot be employed either in paid work or unpaid work, and that those that are attending school may only work outside of school hours. With respect to the working conditions of these children, the law makes a reference to the Labour Law (Article 59). The Regulation for Primary Education Institutions, however, does not contain any rules for implementation that expand on the limitations on child labour in the Basic Education Law. Instead, the regulation provides that a student may take leave of absence for up to 15 days in the course of an academic year for reasons of work in agricultural production upon the written request of the parent (Article 29).

Although the strategy and action plan document prepared based on the Prime Ministry Circular concerning the Improvement of the Working and Social Conditions of Seasonal Migratory Agricultural Workers was published after the announcement of the Time Bound Policy and Program Framework for the Prevention of Child Labour, it makes no mention of regulation or inspection for the employment of children 15 years and older as seasonal agricultural workers. This constitutes a problematic gap in METIP’s content.

In view of all the problematic areas, the most important of which have been outlined above, it can be concluded that there is a need to improve the legal framework with the aim of reducing the adverse effects of seasonal agricultural work on children. Possible improvements are discussed in the “Recommendations” section of this policy paper.

SYSTEMS AND MECHANISMS FOR THE IMPLEMENTATION AND INSPECTION OF LEGAL ARRANGEMENTS

The establishment and consistent operationalization of the systems and mechanisms necessary for the implementation and inspection of legal provisions are at least as important as the scope and content of these provisions. Effective and consistent implementation and inspection is particularly important in the case of seasonal agricultural work. Only through effective and consistent implementation and inspection will all stakeholders, including employers, intermediaries and workers, come to observe the laws and regulations concerning seasonal agricultural work, which up until now has mostly been part of the informal economy. There is no doubt that the process of establishing the systems and mechanisms that will make such implementation and inspection possible
will be challenging. Among the factors that will pose a challenge to the implementation and inspection of legal arrangements are the following: seasonal workers are employed on a large number of farms, in many different places, some of them remote; the level of education of those participating in the process is generally low; seasonal labour is, by definition, carried out for short periods in a given year, and some of the seasonal agricultural workers have no official documents.

In view of the current situation, provincial offices do not seem to be implementing the current legislation in a consistent manner. For example, a review of the decisions taken by the monitoring boards for seasonal migratory workers which have been established at province and district level in accordance with the Prime Ministry Circular on Improving the Working and Social Conditions of the Seasonal Migratory Agricultural Workers reveals differences even with respect to a fundamental issue like the minimum age of employment.

AN EQUATION WITH MANY ACTORS

Many actors are directly or indirectly involved in various components of seasonal agricultural work that have adverse effects on children. Among the main actors are: agricultural workers, agricultural intermediaries, employers, buyers of raw products, processors of raw products, buyers of finished products, local authorities, provincial government offices, and labour unions. When determining the measures for mitigating the adverse effects of seasonal agricultural work on children, the most effective points of intervention in this multi-actor equation need to be identified, and the impact of the measures on each actor and on the current balance among the actors needs to be assessed.

DIVERSITY IN AGRICULTURAL LABOUR

Agricultural labour shows great diversity. It takes place in tens of provinces and affects thousands of employers and hundreds of thousands of workers. Some employers are small family enterprises; others are large agricultural production companies. Hence the employers’

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22 For example, according to the Regulation for Agricultural Intermediaries, the intermediary only has to hold a primary school diploma. A field study conducted in Adana in 2003 found that 4.5% of intermediaries were secondary education graduates, 52.3% were primary school graduates, and 43.1% had not even graduated from primary school (Gülçubuk, Karabıyık & Tanr, 2003). A survey conducted with families of children who participated in migratory agricultural migration in Şanlıurfa found that 82.2% of mothers and 21.3% of fathers were illiterate (Şimşek & Koruk, 2008).

23 Field research conducted in Ordu in August 2011 by the Fair Labor Association found that there were unregistered workers from Georgia among the seasonal agricultural workers. Another example is the field research conducted by the Development Workshop in 2011 and 2012 in Ordu (hazelnuts), Adana/Mersin (greenhouse vegetable production), Şanlıurfa (cotton) and Yozgat (sugarbeet), in which two of the 348 child respondents indicated that they did not have national ID cards and were not registered in the population records.

24 The 15 July 2011 Karasu, Sakarya board decision; the 3 August 2011 Alaplı, Zonguldak board decision; the 4 July 2011 Ordu board decision.
human resource needs and their administrative capacities with respect to employment vary considerably. On the other hand, some agricultural workers are permanent employees, some are local workers who are employed without having to leave their place of residence, and others are migratory workers who have to migrate from their place of residence to find employment. Among migratory agricultural workers, some reside in rural areas, and others in urban areas. Some migrate to only one location in a given year, while others spend a significant part of the year away from their place of residence and migrate to a series of locations.

These and other sources of diversity among employers and agricultural workers are reflected in the effects of seasonal agricultural work on children. More concretely, the experiences of a child who is employed as a local seasonal agricultural worker and a child who is employed as a migratory seasonal agricultural worker - or the experiences of a child who migrates with her family to a neighbouring province for a short period of time during the summer months for seasonal agricultural work and a child who spends most of the year migrating from province to province for different types of seasonal agricultural work - can be very different.

This diversity, and the various circumstances and experiences which it leads to, should be taken into consideration when determining the measures to be taken to mitigate the adverse effects of seasonal agricultural work on children.

**FACTORS INCREASING THE VULNERABILITY OF CHILDREN**

The effects of seasonal agricultural work on children may vary not only with the diversity of the nature of employment in agricultural labour, as in the examples given above, but also with certain characteristics of the child. Amongst the factors which affect the vulnerability of children participating in seasonal agricultural work are gender, age, mother tongue, health and disability.

Examples of gender issues that affect children’s levels of vulnerability include the following: independent of their engagement in agricultural production, girls spend more hours than boys in carrying out domestic chores.\(^{25}\) Thus, the amount of free time that a child has to spend on play or rest can vary as a result of the gender of the child. The rate of school attendance also differs between boys and girls who work as migratory agricultural workers.\(^{26}\) Although no field study has been carried out on this topic, one can also argue

\(^{25}\) According to the research conducted by the Development Workshop in 2011 and 2012 in Ordu, Adana/Mersin, Şanlıurfa and Yozgat, the proportion of children who work in the field is similar for boys and girls yet it is mostly girls who carry out domestic chores such as carrying water, caring for siblings, washing dishes, preparing meals, and cleaning.

\(^{26}\) According to a field study conducted in Adana, the percentage of 15-17 year-old boys working in cotton harvesting who had not graduated from either primary or secondary school was 15.5%, while for girls this ratio was 74.2%
that the gender of the child has an effect on the probability of being subject to violence, abuse, neglect and social exclusion while engaged in seasonal agricultural work.

A young child is particularly vulnerable in the face of poor travel, work and shelter conditions. Young children may be more adversely affected physically and cognitively in comparison to older children in the face of poor conditions.\(^{27}\) If the mother tongue of the child is different from Turkish, which is the official language, and if the child cannot speak the official language well, then the child cannot effectively communicate with employers, public officials and service providers, leading to heightened feelings of social exclusion and acting as another factor that increases the vulnerability of the child during seasonal agricultural work. Any particular physical or mental disability or chronic illness of the child is also a factor contributing to the vulnerability of the child.

These and other factors that increase the vulnerability of certain children need to be taken into consideration when planning measures to mitigate the adverse effects of seasonal agricultural work on children.

**CHILD LABOUR AS A LINK IN A CHAIN OF PROBLEMS**

Child labour in seasonal agriculture is not a problem that emerged of its own accord. It is the cause and the result of various other problems at the macro and micro levels. For this reason, addressing child labour in seasonal agriculture as an isolated matter does not constitute an effective approach; it is necessary to identify the other problems to which it is connected and to have a comprehensive approach.

At the macro level, child labour in agricultural work cannot be separated from the problems encountered in the agricultural labour market. For example, the high levels of unregistered employment in agricultural production have direct ramifications both for seasonal agricultural labour and for child labour in agriculture. As a result, the goals to register the labour force employed in seasonal agriculture, to inspect the conditions of child labour in agriculture and to prevent children from engaging in heavy and hazardous tasks cannot be contemplated separately from the need to eradicate informality in employment in agricultural production. Similarly, problems concerning the working conditions of agricultural workers, their wages and the insecurity of employment in the sector are factors that directly affect child workers and indirectly affect the children of the agricultural workers. It is therefore important to plan out interventions for mitigating the adverse effects of seasonal agricultural work on

\(^{27}\) There are many studies showing the importance of early childhood, especially the first 3 years, for the physical and cognitive development of the individual. For an overview of the findings of different studies, an important source by Norrie, McCain & Mustard is *Reversing the Real Brain Drain: Early Years Study Final Report*. 

(Gülçubuk, Karabayık & Tanır, (2003)). Field research conducted in 2011 and 2012 in Şanlıurfa, Yozgat, Ordu and Adana/Mersin revealed that the average number of days of absence from school for girls of primary school age is 63.1 per school year, compared to 53.9 for boys (Development Workshop (2012)).
children within the framework of macro level regulations concerning employment in the agricultural sector in general.

At the micro level, it is necessary to link child labour in seasonal agriculture to a review of problems at the family level. Here we are confronted with different dimensions of poverty such as inadequate and irregular income, limited access to income earning opportunities, the cycle of debt, high numbers of children per family, chronic health problems triggered by poverty, and problems with accessing education. These circumstances are often combined, and force families to make difficult choices. For example, although parents are aware of the adverse effects of child labour in seasonal agriculture on the health and school attendance of their children, they may end up allowing their children to work in order to secure enough food to feed their families or to be able to pay off their debts. Similarly, despite the poor transport and accommodation which they have to endure during periods of migration away from their place of residence, parents may end up bringing their children along because they lack an alternative solution.

In short, while parents look for solutions to crisis-like problems in the short term, they may end up making decisions that negatively affect their children’s welfare both in the short term and in the long term. It is therefore important to consider these intertwined problems at the micro level when planning measures to reduce the adverse effects of seasonal agricultural work on children. In particular, maximum attention needs to be paid to ensure that families are not further victimized as a result of interventions. In addition, it needs to be underlined that although the child is an individual, s/he is also part of a family and the welfare of the child is shaped as a direct extension of the living and working conditions of the family, and of the rights violations with which the family is faced. In conclusion, some of the interventions to improve the welfare of the child may be designed with a focus on the overall welfare of the family.

**CHILD LABOUR, A VICIOUS CYCLE**

Child labour can display a cyclical nature throughout both the year and the childhood period. Interviews conducted with children who are migratory agricultural workers have revealed that some children work in other jobs close to their homes outside the migration season.\(^{28}\)

Considering the cyclical nature of child labour throughout the year, it seems necessary that interventions for preventing child labour in seasonal agriculture should aim to change its underlying causes, because unless these conditions change, preventing child labour in agriculture could simply shift child workers into other sectors.

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\(^{28}\) For example, interviews conducted with children working as cotton harvesters in Adana show that 20.7% of the children worked in non-agricultural sectors during periods of non-agricultural activity (Gülçubuk, Karabayık & Tanir, (2003)). The majority of these children were male and they resided in urban areas when not engaged in seasonal agricultural work.
In the long term too, child labour seems to have a cyclical nature. When a child becomes an early school leaver due to her/his participation in the seasonal agricultural work, the child may end up continuing to work in agriculture or other sectors for the remainder of her/his childhood. Hence, preventing child labour in seasonal agriculture in the early phases of childhood could also indirectly serve to prevent child labour in later stages of childhood.

**IMPACT OF AGRICULTURAL LABOUR ON EDUCATION PROCESSES**

Children who are affected by seasonal agricultural migration and migratory agricultural work often do not have the benefit of a favourable educational environment in their places of residence. Their educational environments may be rife with challenges and problems, and they may already be at high risk of dropping out. Seasonal agricultural migration is in most cases “the last straw” for these children which may cause them to drop out of school altogether. Seasonal agricultural work children’s education through the following channels, among others:29

- Seasonal agricultural work affects prevents those children who migrate along with family members who are employed as migratory workers from attending school regularly. Long periods of absenteeism may lead to the child dropping out of education entirely.

- The conditions that the child is exposed to during seasonal agricultural migration and work can sometimes continue to affect the physical health of the child even after the migration period. As a result, these health problems may prevent the child from participating effectively in learning processes and may increase her/his risk of dropping out.

- The conditions that the child is exposed to during seasonal migration and work negatively affect not only the child’s physical health but also her/his cognitive development.30 Malnutrition, exposure to agricultural chemicals, and high levels of stress experienced during seasonal agricultural migration and work pose particular risks to the child’s nervous system and hence her/his cognitive development. The child’s cognitive development may in turn effect her/his participation in educational processes.

- Parents and older siblings who are able to devote some time younger children’s development and education when not migrating may have no free time to spend with younger children during migration due to their increased workload. As a result, children and particularly young children are deprived of the interest and support of adults, which are important for their emotional and cognitive development.

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29 The 2007 study of Eğitim-Sen is important in this regard.
Given the importance of peer impact and role models in educational attainment, the experience of seasonal agricultural migration can lead to the child developing a feeling of hopelessness in the future\(^{31}\) which may lead to lower expectations from education and consequently increase the risk of the child dropping out of school.

Existing legislation for mitigating the adverse effects of seasonal agricultural migration and work on children includes, notably, a circular published by the Ministry of National Education General Directorate of Basic Education on 20 April 2011 on the “Education of Children of Seasonal Migratory Agricultural Workers”.\(^{32}\) The relevant provincial offices of the Ministry inform the central authorities about the activities which they carry out in response to the circular; however, it has not been possible to locate any evaluation of the effectiveness of the circular’s implementation or of its impact on educational outcomes. Research conducted in four provinces in 2011 and 2012 demonstrates that the need to take measures addressing problems regarding children’s access to and attendance in schools persists.\(^{33}\)


\(^{32}\) The circular published by the General Directorate of Primary Education (now known as the General Directorate of Basic Education) on 20 April 2011 on “Education of Children of Seasonal Migratory Agricultural Workers” focuses on the following matters: ensuring that children are placed in regional boarding primary schools in their own regions, ensuring that those children who do not have the opportunity to be placed in regional boarding schools due insufficient facilities in their region are bussed to primary schools in the places to which they migrate, and providing mobile schools or tent-schools with mobile teachers in areas that have high concentrations of children of seasonal migratory agricultural workers. In addition, the circular also mentions the Catch-up Education Program, special needs education, conditional education assistance, adult education, vocational education, school support and the e-School system.

\(^{33}\) Field research conducted in 2011 and 2012 in Şanlıurfa, Yozgat, Ordu and Mersin/Adana, shows that the average number of days of absence from school among children of primary school age per academic year is 58.6 days (Development Workshop (2012)). A 2007 study conducted by Eğitım-Sen in Diyarbakir, Batman, Adana, Adıyaman, Şanlıurfa and Gaziantep found that the average number of days of absence due to seasonal migration was 71.1 (Eğitım-Sen, (2007)).
This section of the policy paper presents and opens up for discussion a series of recommendations for policies and interventions aimed at reducing the adverse effects of seasonal agricultural work on children. Our basic premise is that the state is the primary duty-bearer for the protection and promotion of all the rights of every child. Therefore, recommendations that are directly the responsibility of the state are particularly emphasized. However, treating the public agencies as the sole counterpart for a solution may result in the problem being addressed only partially, given the large number of actors. Accordingly, recommendations for steps that can be taken by the private sector and civil society organizations, and especially by labour unions, are also discussed in this section.

A fundamental point that needs to be emphasized here is that bureaucratic and political will is a pre-condition if the policies to be developed and interventions to be made are to have a sustainable impact. Seasonal agricultural work and its effects on children is an issue that is multi-dimensional and affects a wide population. Short-term projects and temporary interventions cannot heal such a deep wound; they can only act as a band-aid that keeps the blood from seeping out and hides the wound. In fact, the design of METIP - which is the most noteworthy intervention program to date in the area of seasonal agricultural work - as a project with temporary funding, the failure to allocate any funds at all for the Time Bound Policy and Program Framework for the Prevention of Child Labour - which is possibly the most important policy document on child labour in seasonal agriculture - and the fact that MoLSS and TURKSTAT do not collaborate and collect regular data on migratory seasonal agricultural work can all be interpreted as signs of weak bureaucratic and political will about this issue. The presence of a strong will is essential if significant progress is to be made.

An important point related to child labour in seasonal agriculture, and which needs to be highlighted here in view of its direct relationship with the question of bureaucratic and political commitment, is that individual steps taken for the prevention of different forms of child labour in different sectors may not have the expected outcome unless a national child labour elimination policy is implemented which encompasses all sectors. Therefore, for the recommendations specific to seasonal agricultural work laid out in this policy paper
to have the maximum effect, it is important that a national child labour elimination policy embracing all sectors is created based on the Time Bound Policy and Program Framework for the Prevention of Child Labour, and that it is implemented with the provision of adequate financial resources.

Attention also needs to be drawn to the assumptions of various public agencies concerning the measures to be taken and solutions to be implemented with respect to seasonal agricultural work. Given that the issue is multi-dimensional, and that all stakeholders, including workers, employees, and intermediaries, are very diverse, it is clear that a single and unilateral intervention will be inadequate. Given their conditions and limitations, if families participating in seasonal agricultural migration are to make a choice other than the current one – and a choice which will also improve the welfare of the child - the policies to be developed and interventions to be designed need to present them with various options. This is also true for employers hiring seasonal agricultural workers. One cannot expect to derive significant results by developing a single intervention and imposing it on families and employers, whose conditions and needs are very diverse, as the sole solution. Related to this, it is essential that the interventions to be developed do not further victimize children and their families.

**RECOMMENDATIONS FOR LEGAL REGULATIONS**

In order to make a significant impact, it will be necessary, although not sufficient by itself, to review legislation in order to identify gaps in the current legal arrangements, and to make the necessary revisions, including the following:

- To extend the Labour Law, in general, and specifically the Regulation on Working Conditions in Work Deemed to be Agriculture and Forestry, the scope of which includes the employers of and employees working with contracts in workplaces or enterprises where agricultural and forestry work is conducted and have 51 or more employees, so that they also apply to smaller workplaces and enterprises as well as seasonal agricultural workers;

- To add an article to the Regulation for Agricultural Intermediaries specifying the administrative penalties to be enforced when the intermediaries fail to carry out their responsibilities with respect to contracts, wages, payments, transport and shelter;

- To change the relevant articles and annexes in the Regulation on the Procedures and Principles for Employing Child and Youth Labour and the Regulation on Heavy and Hazardous Work so as to clearly and openly prohibit paid migratory and temporary agricultural labour by children excluding family work, and to openly add to all related legislation, including the METIP Circular, the necessary restrictions and conditions to prevent the adverse effects of migratory and temporary agricultural labour on the education, development, safety and health of young workers;
With the increase in the duration of mandatory education to 12 years, to review the related education legislation concerning employment of children, and the related labour legislation concerning the conditions for employing child and youth labour, and to introduce the necessary restrictions to ensure that working does not hinder any child from attending mandatory schooling. Within this framework, relevant issues to be taken into account when regulating child labour are: (i) to prohibit all children under the age of 15 from working in paid or unpaid jobs whatever the type of work may be; (ii) because any child between the ages of 6 and 18 is subject to mandatory education, to ensure that even children older than 15 are not employed in jobs that hinder their school attendance, regardless of what the nature of the job may be; (iii) even in cases where the child is older than 15 and the job in question does not hinder the child’s school attendance, it is necessary that the nature and conditions of the work do not pose any risk to the child’s health, safety and morals.

In addition to the above, the ratification and implementation of ILO Convention No. 184 concerning Agricultural Health and Safety by the Government in the near future would be an important step towards strengthening the legal framework.

RECOMMENDATIONS FOR THE IMPLEMENTATION AND INSPECTION OF LEGISLATION

The implementation and monitoring of a strong and comprehensive legal framework requires the establishment of the necessary systems and mechanisms, which must then carry out their functions in a consistent manner. In this context, a first and fundamental step will be for the MoLSS headquarters to communicate its legal framework regarding child labour in seasonal agriculture and its inspection priorities to the provincial offices, employment boards, and provincial and district seasonal migratory agricultural workers monitoring boards. It is important that the local level decision and implementation units voice the same message in a consistent manner.

In addition, the following issues and steps could be given priority:

- With respect to implementation, the land owners, employers, agricultural intermediaries, and agricultural worker families are informed about the legislation regarding child labour and the administrative penalties that they may incur if they do not abide by the law concerning child labour;

- With respect to inspection, given the serious seasonal fluctuations of the volume of inspection, to establish temporary inspection teams comprised of representatives of the provincial offices of relevant state agencies and local NGOs, and as a first step to expand the areas of responsibility of the provincial and district seasonal migratory agricultural workers monitoring boards to meet the need for inspection;

- With respect to inspection again, to implement the Regulation for Agricultural Intermediaries more effectively in order to register agricultural labour, to make it possible
to collect periodic data on seasonal agricultural workers including migratory workers by
developing an additional module to the agricultural enterprise registration system, and to
ensure collaboration between MoLSS and TURKSTAT to obtain detailed data on seasonal
agricultural workers and their families, in parallel with the periodic data

RECOMMENDATIONS FOR SOCIAL AND ECONOMIC INTERVENTIONS

The social and economic interventions for mitigating the adverse effects of seasonal
agricultural work on children could be designed to proceed on three axes: (i) reducing
the number of people wanting to work as migratory seasonal workers, (ii) improving the
wage and social security policies that directly affect seasonal agricultural workers, and
(iii) improving the working, travelling and shelter conditions for everyone in seasonal
agricultural work, but particularly for children.

→ Alternative Sources of Income

If migratory agricultural workers were able to find sufficient sources of income in their
places of residence, this might contribute to reducing the number of people wanting to
work as migratory agricultural workers in the future. The creation of further employment
opportunities in agriculture or in other sectors in provinces from which many residents
migrate for seasonal agricultural work thus emerges as a possible intervention.34 For
example, enterprises that are based on labour intensive production could be supported
more effectively in these provinces. Programs geared towards building the vocational
skills of migratory agricultural workers and providing micro-credit opportunities could be
expanded in scope and outreach. Measures could be taken to facilitate access to currently
idle agricultural land.

→ Wage and Social Security Regulations

With respect to improving the wage and social security regulations for seasonal agricultural
workers, the following measures are of special importance: (i) ensuring that the net daily
wage rate35 for all seasonal agricultural workers is no less than the official minimum wage,
and ensuring that administrative penalties are imposed on the employer and agricultural
intermediary in cases where this rule is infringed, (ii) putting in place regulations to

34 According to the official estimates given by MoLSS for the year 2011, the number of provinces from which more
than 5,000 persons migrate for the purposes of seasonal agricultural work is 11. These provinces are: Şanlıurfa,
Diyarbakır, Mardin, Adıyaman, Gaziantep, Batman, Kahramanmaraş, Hatay, Siirt, Muş and Şırnak.

35 According to Article 11(e) of the Regulation for Agricultural Intermediaries, it is stated that the “daily gross income
of the workers cannot be below the minimum wage identified in Article 39 of the Labour Law No. 4857”. In the
current situation, the employer makes a deduction in the net payment to the workers if the employer provides
meals and shelter. Although legislation dictates that intermediaries cannot charge employees a fee, field research
findings show that in reality the intermediaries take a cut of the wages of the workers (Fair Labor Association,
2012).
ensure that there are at least two labour union representatives (and in cases where no labour union representative exists, representatives of professional organisations or civil society organisations) on all provincial and district seasonal migratory agricultural workers monitoring boards, (iii) making changes to the Law on Social Security and General Health Insurance so that the employer pays the insurance premiums for the duration of the employment of seasonal agricultural workers, and the state subsidises a percentage of the premium, and including an article in the generic seasonal agricultural labour contracts to reflect these changes.

→ **Travel, Work and Living Conditions and Social Assistance**

Improving working, travelling and living conditions and providing social assistance is important for reducing the adverse effects of seasonal agricultural workers on children. In this context, it needs to be underlined that the state is the duty-bearer to take or ensure others take every possible precaution to protect all children’s right to life, development, education, and health during seasonal agricultural migration.36

While the efforts undertaken as part of METIP since 2010 are steps in the right direction, METIP is only a short-term project, and it cannot be regarded as an adequate intervention. It is important to develop as soon as possible a lasting and comprehensive policy that builds on the experience gained and lessons learned through METIP. It is also crucial to enhance the qualitative and quantitative capacity of the implementing provincial offices, to allocate sufficient funding from the general state budget for the planned activities, and to evaluate systematically the coverage and impact of all efforts in this regard. Another priority should be to establish the necessary monitoring and incentive mechanisms so that efforts to improve working conditions, travel arrangements and shelter are sufficient to meet the need in each province without any exceptions, and are not at the discretion of each Governorship.

→ **Access to Education and Retention**

The Circular of the MoNE General Directorate of Basic Education on “Education of the Children of Seasonal Migratory Agricultural Workers”, dated 20 April 2011 constitutes an important starting point with respect to possible social and economic measures for children’s access to education. The circular establishes that a child should be able to continue her/his education either through a regional boarding school in her/his area of residence37, or through the bussing system and mobile teachers in the region to which

36 Article 18.2 of the Convention of the Rights of the Child is important in this context. This article of the Convention states: “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.”

37 While the Prime Ministry Circular No. 2010/6, concerning METIP, mentions that children are to be placed in regional boarding primary schools in their own regions or in the regions to which they are migrating, the circular of the
the child has migrated with her/his family. In light of the recent extension in the duration of mandatory education to 12 years, it is now a matter of urgency that this circular is expanded to include secondary education as well. In the process of expanding the scope of the circular, it is also important to take into consideration the 100% enrolment target set by the Ministry for 48-60 month-old children for 2013.

Ensuring that no child is excluded from any of the services and opportunities envisaged by an expanded circular is the responsibility of all state agencies, but particularly of the Ministry of National Education. Towards this end, it is of crucial importance to allocate adequate financial funding to schools and to the provincial offices of the Ministry of National Education and the Ministry for Families and Social Policies. Similarly, it is essential that the human resources in the sectors of social services and education, especially teachers, are sufficiently competent, qualified and willing. Consequently, the number and quality of human resources must be increased in the education and social services sectors in those provinces which agricultural workers migrate to and from.

Another fundamental component of the successful implementation of an expanded circular would be the effective and consistent utilization of the e-School modules that allow for the monitoring of the school attendance of each child. Furthermore, it is important that a system is created that allows for MoNE and MoLSS to work in cooperation to monitor child labour in agriculture and school attendance.

→ Young Children

With respect to social and economic interventions for the development of young children, METIP speaks of “measures that facilitate child care for pre-school children” and “social support services”. MoNE is designated as the primary agency and the Social Services and Child Protection Agency (SHCEK) is designated as the secondary agency responsible for implementing these measures. It is of concern that MoNE, as the primary agency in this regard, did not include any initiative or measure for pre-school children in the circular mentioned above.

Not only must the possible detrimental effects of seasonal agricultural migration on the physical, cognitive and emotional development of these children, who are at the most crucial stage of their physical, cognitive and emotional development, be prevented, but further steps need to be taken to implement programs during this period that will

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MoLSS, which prepared the “Strategy and Action Plan for Improving the Working and Social Lives of Seasonal Agricultural Workers”, and the MoNE circular “Education of Children who are Seasonal Migratory Agricultural Workers” propose only that children are placed in regional boarding schools in their own regions. This difference is worth noting. Its impact on ensuring the retention of the child in school should be discussed.

38 SHCEK has been dissolved in line with Decree No. 633 dated 31 December 2011 and its responsibilities have been transferred to the Ministry of the Families and Social Policies.

39 The “Strategy and Action Plan for Improving the Working and Social Conditions of Seasonal Migratory Workers” was published by MoLSS in 2010 in line with the Prime Ministry Circular.
support their development. In this context, MoNE and MFSP should work together to identify the necessary and appropriate measures to support the development of young children, and should ensure without further delay that the provincial offices implement these interventions. As part of these efforts, priority could be given to implementing centre-, family- and community-based early childhood development programs in places where migratory agricultural workers are accommodated, while free-of-charge child care services could be provided during the working hours of parents who are migratory and local agricultural workers. In fact, the Convention on the Rights of Child states that the state 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 18.3).

→ Discouraging Children’s Participation In Migration

Among the social and economic interventions to be implemented to mitigate the adverse effects of seasonal agricultural work on children, interventions might be included which encourage families to leave their children behind during the seasonal migration process. However, these should be considered as temporary and short-term measures which are implemented on a voluntary basis, so that they do not in any way create a risk of violating the rights of children and their families. The design of any such measures should be guided by Articles 5, 7, 9 and 18 of the Convention on the Rights of the Child.40

One possible measure to give parents participating in seasonal agricultural migration the option of not taking their children, particularly young children, with them would be for the state to provide financial support, for the period of the migration, to relatives of workers registered through the agricultural intermediaries in order to alleviate the financial burden of caring for the children. Furthermore, children of mandatory school age whose parents are registered through the agricultural intermediaries could be given the option of going to boarding summer schools which could be organised free of charge at the regional boarding primary schools in their places of residence.

40 Article 5 of the Convention on Rights of the Child states that “States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention”. Article 7.1 refers to “as far as possible, the right to know and be cared for by his or her parents”. Article 9.1 states that “States Parties shall ensure that a child shall not be separated from his or her parents”. Article 18.1 states that “the parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child.”
ROLE OF THE PRIVATE SECTOR IN FINDING A SOLUTION

Although the main responsibility for mitigating the adverse affects of seasonal agricultural work on children lies with the state, other stakeholders including employers, land owners, agricultural enterprise owners, buyers and processors of raw products, and buyers of finished products also have responsibilities. The primary responsibility of these actors in the private sector is not to violate the rights of seasonal agricultural workers and their families regarding work, travel and shelter conditions, and to fulfil their responsibility not to employ child labour. Although this responsibility lies primarily with the employer, purchasers of raw and finished products, many of which are national and international companies, could insist that the employer does not employ child labour or violate the aforementioned rights, and set up mechanisms to monitor compliance, so as not to contribute indirectly to rights violations. In this context, the recent process initiated by Nestlé and the Fair Labor Association concerning hazelnut harvesting is noteworthy.41

ROLE OF CIVIL SOCIETY IN FINDING A SOLUTION

There is a need for civil society, and especially labour unions and associations working on child rights, to make more effective efforts to mitigate the adverse effects of seasonal agricultural work on children. In this context, the activities undertaken by labour unions, federations and confederations for the improvement of the working conditions of non-unionised agricultural workers and the prevention of child labour in agriculture are of particular importance. Civil society actors can also contribute to reducing the adverse effects of seasonal agricultural work on children by monitoring rights violations and placing pressure on the state to fulfil its responsibilities diligently.

41 The Fair Labor Association was established by CSOs, universities and companies with social responsibility to ensure international labour standards in all stages of production. Nestlé became a member of the Fair Labor Association on 29 February 2012. In this context, a study has been conducted concerning the production, harvesting and processing of hazelnuts in Turkey, which is a raw product used by Nestlé, and identified the precautions to be taken. In the next stages of the initiative, Nestlé, in cooperation with the Fair Labor Association, will be responsible for ensuring that hazelnuts procured from Turkey meet international labour standards.
ANNEX 1: NATIONAL AND INTERNATIONAL LEGISLATION

International Conventions:
Convention on the Rights of the Child
ILO Convention No. 138 and Recommendation No. 146
ILO Convention No. 182 and Recommendation No. 190
ILO Convention No. 184 and Recommendation No. 192 (Not ratified by Turkey)
OECD Guidelines for Multinational Enterprises

National Regulations:
Turkish Labour Law (No. 4857)
Basic Education Law (No. 222)
Turkish Employment Agency Law (No. 4904)
Social Security and General Health Insurance Law (No. 5510)
Social Security Law for Agricultural Labour Force (No. 2925)
Regulation for Agricultural Intermediaries
Regulation on the Procedures and Principles for Employing Child and Youth Labour
Regulation for Working Conditions in Work Deemed to be Agriculture and Forestry
Regulation for Heavy and Hazardous Work
METIP Circular
MoNE Circular for Education of Children of Seasonal Agricultural Migratory Workers
ANNEX 2: REFERENCES


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It was a study on seasonal agricultural child labour, conducted in 2002, which brought together the founders of the Development Workshop. Thus the main area of activity of the Workshop since its foundation in 2004 has been seasonal agricultural work and children. The Workshop is determined to continue its efforts to reduce the adverse effects of seasonal agricultural work on children.