



Forensic Medical Perspective on Child Brides and Child Marriages

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ABSTRACT

There are many definitions on the concept of "child" from past to present. According to the generally accepted view, individuals under the age of 18 are considered as "children" and marriages before the age of 18 are considered as "child marriages", while girls married before the age of 18 are considered as "child brides". The reality of child brides continues to increase as a global problem in our country and in many countries of the world. Early marriages performed without the informed consent of the child are a common form of sexual abuse of girls. Sexual abuse at a young age can cause many negative effects in the later stages of a child's life. The problem of child brides is one of the most important social problems that need to be solved in our country. In approaching this problem, first of all, a common language should be created between legal regulations and institutions, and laws should be reorganized to ensure they do not leave the door open for marriages at a young age. In this study, it is aimed to reveal the awareness of the issue of "child brides" and "child marriages", which continue to be a serious social problem in our country and all over the world, and to determine the necessary solution suggestions for the solution of the problem in the light of the literature.

Keywords: Child marriages, Early marriages, Child brides, Child abuse

Çocuk Gelinler ve Çocuk Evlilikleri Gerçeğine Adli Tıbbi Bakış

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ÖZET

"Çocuk" kavramı üzerine geçmişten günümüze yapılan birçok tanım mevcuttur. Genel kabul gören görüşe göre; 18 yaş altı bireyler "çocuk" ve 18 yaşından erken yapılan evlilikler ise "çocuk evlilikleri" olarak değerlendirilirken 18 yaşından önce evlenen kız çocukları ise "çocuk gelinler" olarak karşımıza çıkmaktadır. Çocuk gelinler gerçeği ülkemizde ve dünyanın birçok ülkesinde küresel bir sorun halinde artarak devam etmektedir. Çocuğun bilinçli rızası olmaksızın gerçekleştirilen erken evlilikler kız çocuklarında görülen cinsel istismarın sık görülen şeklidir. Küçük yaşlarda maruz kalınan cinsel istismar çocuğun yaşamının ileriki dönemlerinde pek çok olumsuz etkiye neden olabilmektedir.

Çocuk gelinler sorunu, ülkemizde çözüm üretilmesi gereken önemli toplumsal sorunların başında gelmektedir. Bu soruna yaklaşımda öncelikle yasal mevzuat ve kurumlar arasında ortak bir dil oluşturulmalı, yasalar çocuk yaşta yapılan evliliklere açık kapı bırakmayacak şekilde tekrar düzenlenmelidir.

Bu çalışmada; ülkemizde ve tüm dünyada ciddi bir toplumsal problem olarak süregelen "çocuk gelinler" ve "çocuk evlilikleri" konusunun farkındalığını ortaya koymak ve literatür ışığında sorunun çözümü için gerekli çözüm önerileri belirlemek amaçlanmıştır.

Anahtar Kelimeler: Çocuk evlilikleri, Erken evlilikler, Çocuk gelinler, Çocuk istismarı

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Introduction

In its most basic definition, a child is defined as an individual who lives from birth to adulthood, but it is also defined as an individual who is physically, mentally and socially immature. In addition to the fact that there are many different definitions of the concepts of child and childhood, it is a controversial issue as to what age limits the childhood period covers.¹

Entered into force in 1990, the United Nations Convention on the Rights of the Child, which is the human rights document ratified by the largest number of countries in a short period of time, is defined in Article 1 as “Every human being shall be deemed to be a child until the age of eighteen years, except when he or she attains majority at an earlier age according to the law applicable to the child.” In Turkey, the concept of child is defined as “a person who has not yet attained the age of eighteen, even if he/she attains majority at an earlier age” in the Child Protection Law (CPL) adopted on July 3, 2005 and as “a person who has not yet attained the age of eighteen” in the Turkish Penal Code (TPC) No. 5237. According to Article 11 of the Turkish Civil Code (TCC), “Adulthood begins with the completion of 18 years of age.” Individuals under the age of 18 are considered as children. Based on these definitions, the common opinion is that individuals under the age of 18 are children.²

Although there are various definitions of the concepts of “child” and “early marriage”, the generally accepted view is that individuals under the age of 18 are considered “children” and marriages before the age of 18 are considered “early marriages”.³ The United Nations Children's Emergency Fund (UNICEF) defined child marriages as “marriages that take place before the age of 18 and before they are physically, physiologically and psychologically ready to bear the responsibility of marriage and childbearing”.² Girls who marry before the age of 18 are “child brides”, which has become a major problem in the society.

Early marriages are usually forced marriages that are performed without the consent of the child and by family decisions. These marriages performed without the informed consent of the child are a type of violation of human rights and children's rights and are a common form of sexual abuse seen in girls. Child marriages are also a major problem because they are socially associated with sexual abuse.^{3,4}

Child Brides in the World

Although many studies have been carried out in the world on child marriages, which closely concern all segments of the society, such as the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, child marriages are still a global problem in many countries of the world.⁵

In the report published by UNICEF on May 3, 2023, it was stated that according to current global figures, there

are an estimated 640 million child brides worldwide.⁶ The problem of child brides is widespread in many parts of the world, especially in regions with low levels of development such as Sub-Saharan Africa, North Africa, Central and Southeast Asia, Latin America and the Caribbean.^{7,8} While Nigeria with 75%, Central African Republic 68%, Chad 68%, Bangladesh 66%, Guinea 63%, Mozambique 56% are the countries with the highest rates of child marriages, our country ranks second among European countries after Georgia with a rate of 14%.⁹ Countries with high rates of early marriage have unequal consent laws for girls and boys, which reinforces the idea that it is appropriate for girls to marry early.^{8,10} In patriarchal societies with underdeveloped educational and economic levels and traditional patterns, early marriages continue in perpetuity. In these societies, women and girls are turned into objects of sexual and economic exploitation.⁵

There are different rules on the legal age of marriage and minimum age of marriage around the world. While the official age of marriage is 18 in most countries, there are provisions that allow children under 18 to marry with the consent of their parents or the judiciary, leading to contradictions in practice. In Saudi Arabia and Yemen, there is no minimum age of marriage, while in Lebanon the minimum age of marriage is 9 for girls and 13 for boys. In Iran, the minimum age of marriage is 13 for girls and 15 for boys. In the United States, child marriage laws vary widely between states. In states other than Delaware and New Jersey, children under the age of 18 may be allowed to marry with parental or judicial consent. Delaware became the first state to ban marriages under the age of 18 without exception in 2018 by requiring children to reach the age of 18 to marry. New Jersey followed shortly after. In Norway in 2003 and in the UK in 2023, changes were made to the legal procedure to prevent child marriages. With these changes, the legal age of marriage was raised to 18, and children aged 16 and 17 were prohibited from marrying even with the consent of their parents.^{5,11-13}

Child Brides in Turkey

Child marriages, which occur at high rates in underdeveloped countries, also occur at high rates in developing countries. The actual frequency of child marriages cannot be determined due to unofficial and unregistered marriages. Although official data on marriage in our country include only marriages performed with an official ceremony, even these data show that child marriages have a high rate among all marriages.^{5,14}

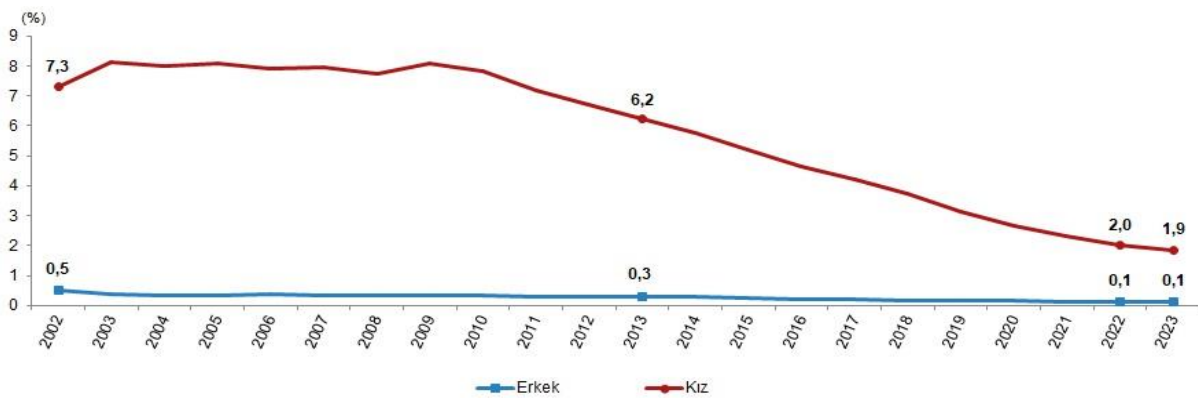
In our country where child marriages are observed at high rates, according to the results of Hacettepe University Institute of Population Studies Turkey Demographic and Health Survey (TNSA), 15.2% in 1998, 11.9% in 2003 and 9.6% in 2008 were observed in the 15-19 age group. When the statistics are analyzed, it is seen that the general trend is towards a decrease in marriages between the ages of 15-19.¹⁵

Table 1. Marital Status at Age 15-19⁵

	Single	Married	Divorced	TOTAL
Male	3.194.698	15.543	102	3.210.343
Female	2.832.889	216.810	1604	3.051.303
TOTAL	6.027.587	232.353	1706	6.261.646

Table 2. Number of children married in the 16-17 age group by gender¹⁶

Year	Number of Married Boy Child	Number of Married Girl Child
2002	2.592	37.263
2023	706	10.471

Graph 1. Proportion of child marriages in total marriages by sex in 2002 and 2023¹⁶

According to 2010 data from the Turkish Statistical Institute (TUIK), there are 6,261,646 children between the ages of 15 and 19 in Turkey, of which 3,210,343 are boys and 3,051,303 are girls. When the marital status of these children is analyzed, it is seen that there is a remarkable difference of approximately 14 times between the number of married girls and married boys.⁵

An analysis of the number of boys and girls married at the age of 16-17 according to TurkStat statistics for 2023 shows that there is a significant decrease in the total number of children married at the age of 16-17, while there is a 15-fold difference between the genders in 2002 and 2023. According to official data, the proportion of girls married at the age of 16-17 in total marriages decreased from 7.3% in 2002 to 1.9% in 2023. As can be seen in the available statistics, the problem of child marriages is concentrated on girls, who are numerically much higher.¹⁶

In the evaluation by provinces, it was reported that the provinces with the highest rate of girl child marriages in 2018 were Ağrı 14.8%, Muş 14.1% and Bitlis 12.5%, while the provinces with the lowest rates were Bolu 0.7%, Trabzon 0.9% and Artvin 0.9%.¹⁷

When the findings of a study conducted with a total of 5,036 women in 26 provinces in Turkey are examined, it is seen that the idea that child marriages are common only in Eastern Anatolia and South Eastern Anatolia regions is

not correct. Although child marriages are observed at higher rates in these regions, it has become a problem that we encounter all over Turkey.¹⁷ The reality of child brides continues to exist as a fundamental problem in our country and in the world.¹⁸

Legal Regulations on Child Brides in Turkey

With the January 1, 2002 Turkish Civil Code, the age of marriage, which was previously seventeen for men and fifteen for women, has been set at seventeen for both sexes by regulating the discrimination between the sexes. Accordingly, Article 124 of the TCC reads as follows: "A man or a woman cannot marry until they reach the age of seventeen. However, in extraordinary cases and for a very important reason, the judge may allow a man or woman who has reached the age of sixteen to marry. Whenever possible, the parents or guardian shall be heard before the decision."¹⁹ According to this article, it is not possible to marry minors under the age of seventeen, even with the consent of their parents, except in extraordinary circumstances. Generally, in extraordinary cases such as pregnancy or having a child, girls who have reached the age of sixteen may be allowed to marry a judge's decision.⁵

When the TPC No. 5237 is analyzed in terms of child marriages, articles related to sexual neglect and abuse of children are observed. Sexual offenses are defined in the TPC and the definition of “sexual abuse” is used when these offenses are committed against children, while the term “sexual assault” is used when these offenses are committed against adults.⁵

Article 103 of the TPC under the heading “Sexual abuse of children”;

1. “The person who sexually abuses a child shall be punished with imprisonment from three to eight years. Sexual abuse is defined as

- a. All kinds of sexual behavior against children who have not completed the age of fifteen or who have completed the age of fifteen but whose ability to perceive the legal meaning and consequences of the act has not developed,
- b. Sexual acts committed against other children only on the basis of force, threat, deception or any other reason affecting the will are understood.”

Article 103/2. regulates the crime of qualified sexual abuse, Articles 103/3. and 103/4. regulate the aggravating circumstances of the crime, and Articles 103/5. and 103/6. regulate the aggravation of the crime due to its consequences.²⁰

In our society, it can be observed that families marry off girls under the age of fifteen. When this situation occurs, judicial action is taken against the defendant, the defendant's mother and father and the victim's mother and father.¹⁵

Article 104/1 of the TPC titled “Sexual intercourse with a minor” reads as follows: “A person who has sexual intercourse with a child who has completed the age of fifteen without force, threat or deception shall be sentenced to imprisonment from two years to five years upon complaint.” Article 104/2 states that if the crime is committed by persons who are prohibited from marrying the victim, and Article 104/3 states that if the crime is committed by persons under the obligation of protection, care and supervision, it will be punished without a complaint.²⁰ This article defines sexual intercourse with a minor as an independent crime. However, the spouse who informally marries a child over the age of fifteen and has sexual intercourse with this child will not be punished unless the victim files a complaint.⁵

Article 3 of the Law No. 5395 on CPL is defined as “a child is a person who has not attained the age of eighteen, even if he/she becomes an adult at an earlier age”.²¹ Although the age limit of eighteen stated in the definition of child in this article is in line with international agreements, it contradicts with other laws in our country.⁵

According to the aforementioned articles in the Turkish legal system, the definition of child marriages and child brides varies across laws. Girls under the age of 15 are considered child brides in the TPC, girls under the age of 17 are considered child brides in the TCC, and girls under the age of 18 are considered child brides in the CPL. In our country, there are contradictions between laws in terms of the concept of “child bride”.¹⁵

Causes of Child Marriage

There are various reasons why child marriages, which are an important health problem and a violation of human rights, continue. The incompatibility in the legal regulations on the subject is one of these reasons. When we look at the laws in force in our country, although children under the age of 18 are considered as children, marriages with children over the age of 15 are subject to the condition of 'complaint', and marriages with children over the age of 16 are officially permitted. This situation is one of the important reasons for child marriages between the ages of 15 and 18.²²

In the May 2010 report of the Turkish Grand National Assembly (TBMM) Commission on Equal Opportunities for Women and Men on early marriages, the causes and consequences of child marriages are presented in detail. In this report, the underlying causes of child marriages are categorized as traditions, customs, lack of education, domestic violence, misperception of religious beliefs, social pressure and the language used, socio-economic reasons, traditional marriage types such as cradle to cradle and property.¹⁵

Studies on the subject show that there is a direct proportion between family poverty and the incidence of child marriages. In some families with low-income levels, girls are seen as a financial burden and therefore they are married off at an early age for reasons such as reducing this burden and earning money from bride price.¹⁵ Some families also think that the marriage of their daughters will provide their salvation because of the economic difficulties they experience.⁵ It has been observed that families with good economic status do not tend to marry their children at an early age in rural areas.¹⁵ Early marriages are more common in families with poor sociocultural structure and low education levels. It is observed that there is a direct proportion between the level of education and the age at marriage. According to the Turkey Family Structure Survey (TAYA) conducted by the Ministry of Family and Social Policies in 2006, the rate of marriage under the age of 18 was 48% among illiterate individuals, while it was found to be 6% among those with undergraduate and graduate education.¹⁸

Traditional practices are another reason for early marriage of girls. Traditional practices such as berdel marriages, blood price marriages, cradle to cradle marriages and bride price practices, which are still observed in some segments of the society, lead to child marriages.²² In berdel marriages, which are performed as an exchange of brides between two families, or cradle-kertmesi marriages, the marriage age of girls is not taken into account. In patriarchal societies, since the concept of honor is interpreted through women, it is thought that the risk of protection of honor will be eliminated by marrying girls at an early age.² In patriarchal societies, child marriages are normalized and legitimized. As a result, gender inequality is reinforced and life choices of girls are reduced.⁵

Table 3. Consequences of Early Marriage¹⁵

Medical Consequences	Psychosocial Consequences
Mothers	Mothers
Inadequate body weight gain	Failure to attend educational institutions
Obesity, excessive increase in body weight	Limitations in social activities
Preeclampsia	Loss of business opportunities
Anemia	Poverty
Sexually transmitted infections	Divorce and separation
Head-pelvis discrepancy	Social isolation
Severe hemorrhages	Stress/depression
Postpartum problems	Substance abuse
Frequent pregnancy	Frequent pregnancy
Deterioration of general well-being	
Maternal mortality	
Babies	Babies
Low birth weight	Development retardation
Premature birth	Behavioral disorders/substance abuse
Sudden infant death syndrome	School failure and dropout
Acute infections	Unemployment/poverty
Accidents	Unintended pregnancy
Infant mortality	

Consequences of Child Marriage

Early and forced marriages in adolescence, a period of physical, psychological and social growth and maturation, cause painful consequences for children and society in

The report of the TBMM Commission on Equal Opportunities for Women and Men on early marriages presents a table on the consequences of early marriage (Table 3). The consequences for the girls themselves and their babies, who appear as child brides, are categorized in medical and psychosocial terms. As seen in Table 3, child marriage causes many problems for both groups. Another striking point is that lack of education and poverty, which are among the leading psychosocial consequences of child marriage, are the main causes of child brides. Therefore, improvements in education and economic areas will be the key to solving the problem of child brides.²

Lack of education is both a cause and a consequence of child marriages. The rate of child marriages is higher among parents and families with low levels of education. Education is the main factor in preventing child marriages. In societies where education is not given sufficient importance, it becomes impossible to prevent child marriages. The education of children who are married at an early age is interrupted⁽¹⁵⁾. Since children whose education is interrupted and who are left ignorant cannot be expected to raise well-educated and conscious children in the future, early marriages cause generations-long educational problems and the continuity of similar traditions.⁵

Girls' education is interrupted by early marriages and as a result, they are prevented from having a profession, participating in production and enjoying their right to work. This situation then causes many problems. Women and girls who cannot have economic freedom are trapped in a cycle of lack of education, lack of money and dependency.⁵ Inequality between women and men in society is also reinforced.²²

general. Over time, the problems seen in children due to early marriages turn from being a problem that concerns only children to a social problem and appear as heavy blows to the society. Child marriages lead to problems in many areas such as health, education and social life.⁵

Early marriages cause unwanted pregnancies and early motherhood for girls who do not have sufficient knowledge about family planning. Child brides, who have not yet completed their psychosocial development and whose bodies are not physiologically ready for childbearing, even if they have reached the level of physical development, especially in terms of reproduction, often experience difficulties before and after birth if they become pregnant. With early pregnancies and births, the individual who is herself a 'child' is also obliged to bear the responsibility of motherhood. Early pregnancies also pose a danger for mother and baby.^{18,22} All adolescent pregnancies are considered a medically risky group. It is known that girls who give birth between the ages of 15 and 19 have a much higher risk of dying during delivery compared to women in their early 20s.¹⁵

Girls who marry early are at higher risk of intimate partner violence compared to adult women. Research shows an association between neglect, physical, emotional and sexual abuse in early childhood and poor health outcomes in adulthood. Girls who marry early report higher levels of depression and are at increased risk of somatic illness. Adults who were abused in childhood are more likely to repeat the cycle of violence and have higher rates of family dysfunction and mental health disorders. Studies have shown that child brides who are married off at an early age fail to develop physically, emotionally and spiritually, and in the following years they fall short in many areas and are unable to overcome the devastation. Child brides also develop a sense of worthlessness as a deeper problem due to marriage performed without their consent.²³⁻²⁵

By marrying off girls who have not completed their psychosocial development, children may experience problems in their social identities. With early marriages, children are expected to acquire domestic roles for which they do not yet feel ready.⁵ In addition to the responsibilities imposed on the individual with early marriages and early motherhood, they are isolated and disconnected from their social environment as a result of the restrictions imposed by the society for married women. This situation may prevent children from acquiring social skills acquired during adolescence and healthy identity formation. It is a controversial issue how happy girls who are exposed to many restrictions by the society and their husbands, who cannot acquire social skills adequately and who cannot complete their social identity development will be in their marriages.²²

Child Brides through the Perspective of Child Abuse

The World Health Organization defines child abuse as “behaviors done knowingly or unknowingly by an adult that negatively affect the child’s health, physical and psycho-social development”. Child abuse can be classified as physical abuse, sexual abuse, emotional abuse and neglect. These different types of child abuse appear as a social problem affecting all segments of society.^{26,27}

Sexual abuse is the use of a child who has not yet completed psychosocial development by an adult for sexual stimulation. Since sexual abuse is the most difficult type of abuse to detect among the types of child abuse, it usually remains hidden.^{26,28} Cases of sexual abuse are observed in all age and socioeconomic groups. It has been reported that sexual abuse is mostly experienced for the first time in children between the ages of 8-12.²⁹ Sexual abuse experienced at a young age may cause physical, psychosocial and behavioral negative effects in the later periods of the child’s life. Early marriage of children is the most common form of sexual abuse in girls.^{22,27} Exposure to physical, emotional, verbal and sexual violence can be observed frequently in girls who are married at an early age.¹⁸

Forensic Medical Approach to Child Abuse Cases

All situations in which the intent, negligence, imprudence or carelessness of another person/persons causes a person to become physically or mentally ill, and therefore involves a criminal element and is foreseen to take place in a trial process are considered as “forensic cases”.³⁰

Physicians frequently encounter forensic cases during their duties. Physicians have an obligation to report these forensic cases. Physicians who encounter a forensic case must report the crime to the competent authorities within the scope of Article 280 of the TPC. Accordingly, in the fight against the crime of neglect and abuse against children, the health professionals who have the slightest suspicion that the crime has been committed should report the situation to the competent authorities without delay.³¹

Articles 102-105 of the TPC No. 5237 deal with sexual offenses. Article 102 of the TPC includes sexual crimes against adults under the title of crimes against sexual immunity (sexual assault), Article 103 includes sexual abuse crimes against children, Article 104 includes sexual intercourse with minors

(between the ages of 15-18) and Article 105 includes sexual harassment crimes.²⁹ As required by these articles of law, it is among the obligations of forensic physicians to interview the victim, collect biological evidence of the crime, determine the findings related to the crime by examining the victim and report them to the judiciary.³¹

The permission of the judicial unit (prosecutor or judge) is required for the internal body examination of cases of alleged sexual assault/abuse. In forensic medicine practices in our country, acute period examinations of cases subjected to sexual assault and sexual abuse are performed in hospitals affiliated to the Ministry of Health, University hospitals and Group Directorates and Branch Directorates affiliated to the Forensic Medicine Institute. Chronic period examinations of these cases are mostly performed at the 6th Specialized Board of the Istanbul Forensic Medicine Institute. The evaluation of sexual assault/abuse cases is a complex process involving history, physical examination, genital examination, treatment and rehabilitation. Since mental effects can be observed in cases of sexual abuse and assault in addition to physical and genital findings, a multidisciplinary approach including physical and mental health evaluation of the victim and laboratory examinations should be applied in such cases.^{32,33}

Solution Suggestions

The problem of child brides is one of the most important social problems that our country needs to find solutions for.⁵ Correction of this situation in our country, which has a very high rate of child brides compared to many developed countries, is extremely essential. Examining how developed countries tackle this issue may be enlightening for finding solutions in our country. For example, in the UK, which has a child bride rate of only 1.7%, various policies are implemented to further reduce this problem. In the UK, there is a ‘Forced Marriage Unit’ working to prevent forced marriages and this unit fights against forced child marriages.²² In Norway, another developed country, some changes have been made in the legal procedure to prevent child marriages. In 2003, an article prohibiting forced marriage was added to the penal code and imprisonment of up to 6 years was deemed appropriate for forced marriages. In addition to this article, while marriages under the age of 18 were previously possible with the consent of the family, the provision that parents could no longer give consent for marriage was added to the child law to prevent such situations.⁵

Solutions should be sought as soon as possible to combat early and forced marriages. In approaching the problem of child marriages, a harmonized arrangement should be made between laws and institutions.⁵ It is expected that the problem of early marriages will be reduced to a great extent with the implementation of legal regulations and severe penal sanctions in case of violation of prohibitions. Incompatibilities between the TCC No. 4721, the TPC No. 5237 and the CPL No. 5395 should be resolved. The laws should be reorganized in a way that does not leave the door open to child marriages. The deterrence of the relevant penalties in the TPC No. 5237 should be increased, and supervisory mechanisms should be established in the enforcement of the laws.¹⁵

Apart from increasing penalties, the most important step in the prevention of child marriages, is to ensure a change in the mentality of the society and to renew the patriarchal

perspective of the society.¹⁷ Girls should be seen as a social “asset” rather than an economic “burden”.¹⁸ Awareness of child marriage should be raised in all segments of society.¹⁷ Educational projects should be developed in schools, health centers and public education centers to raise awareness especially in rural areas. Written and visual media should be used to raise awareness against child marriage.⁵

As the level of education increases, the number of child marriages decreases. Especially in regions where child marriages are common, absenteeism of girls from education should be taken under control, teachers and school personnel should be given responsibility for ensuring attendance and inspections should be strictly implemented.⁵ For children in formal education, issues such as the drawbacks of early marriages, maternal and child health and reproductive health should be adequately included in the curriculum. Due to the high number of illiterate women, trainings should be given to women in order to increase the literacy rate among women. In addition, in order to prevent early marriages, vocational training courses should be emphasized and opportunities should be provided for women to have a job.¹⁵

As a result, child marriage is a problem that prevents the exercise of human rights, reinforces inequality between men and women and deprives children of their basic rights such as education. These marriages are an area that should definitely be combated in terms of gender equality.¹⁵ Child brides should be seen as a “serious problem” in the world and especially in developing countries like our country and effective solutions should be sought. Healthy and happy individuals will be realized as a result of the child undergoing a healthy socialization process, completing her/his education, getting to know herself/himself and making her/his own marriage decision.¹⁷

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