

The Dark Side of Syrian Refugee Crisis: Child, Early and Forced Marriage in the Case of Turkey

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Abstract

In modern world, political and security-based crisis trigger social crises. Because of Syrian Civil War, 13.5 million Syrian people need humanitarian assistance due to this war. One of the problem as a human rights violation is child, early and forced marriage problem. Challenging life conditions, and the precarious economic situation of some families, which encourage them to marry off their daughters to ease their financial responsibilities direct refugees this brutal business. Girls and women are forced into marriage without their consents by traffickers and even their own relatives. As a result of the geopolitical location, religious and historical similarities, Turkey hosts almost 3 million Syrian refugees. In this regard, this study indicates existing legal and social measures and evaluates their efficiencies.

Key words: Child, early and forced marriage, International Law, Syrian Refugee Crisis, Turkey's Efforts.

Introduction

Child, early and forced marriage is a global problem which cuts across countries, cultures, religious and ethnicities and affects approximately 15 million girls every year.¹ This crime causes many problems for not only the societies but also the individuals. Before its situation in international law, it is important to demonstrate the level of threat.

According to the United Nations Children's Fund (UNICEF), 11% of women worldwide were married before reaching the age of 15.² It means that 14.2 million girls annually or 39,000 daily will marry too young. The U.S. Agency for International Development (USAID) gives more detailed statistical data about severity of this crime in global level. 41 percent of girls under 18 are married in East and Central Africa, 29 percent in Latin America and the Caribbean, and 15 percent in the Middle East and North Africa.³

Osoimehin highlights the brutal features and high prevalence of this crime as; "Child marriage is an appalling violation of human rights and robs girls of their education, health and long-term prospects."⁴ In this respect, it is important to understand their violated rights. As a consequence of these following matters such as effectively ending their education, blocking any opportunity to gain vocational and life skills, exposing them to the risks of too-early pregnancy, child bearing, and motherhood before they are physically and psychologically ready, and increasing their risk of intimate

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¹ Girls Not Brides "Human Rights Council adopts resolution to end child, early and forced marriage" <<http://www.girlsnotbrides.org/human-rights-council-adopts-resolution-to-end-child-early-and-forced-marriage/>> 05 August 2016

² UNICEF, "Child Marriages: 39,000 Every Day" <http://www.unicef.org/media/media_68114.html> 05 August 2016

³ UNFPA, "Marrying too Young: End Child Marriage" <<http://zimbabwe.unfpa.org/sites/esaro/files/pub-pdf/MarryingTooYoung.pdf>> 01 August 2016 p.27.

⁴ Babatunde Osoimehin, M.D, Executive Director, UNFPA, his speech was delivered in the launch of the report against child marriage of United Nations Population Fund (UNFPA) <http://www.who.int/mediacentre/news/releases/2013/child_marriage_20130307/en/> 04 August 2016

partner sexual violence and HIV infection, this is a threat against their basic rights. About this issue, Bachelet who is Executive Director of UN Women emphasizes that “no girl should be robbed of her childhood, her education and health, and her aspirations. Yet today millions of girls are denied their rights each year when they are married as child brides.”⁵

To show its risks in specific manner, I highlight the potential outcomes of child, early and forced marriage. This provides an opportunity to closer look the potential jeopardies of this crime. According to Girls Not Brides, which is a global partnership of more than 600 civil society organisations from over 80 countries, child marriage disempowers girls for life, depriving them of their agency, their right to health, education and a life free from violence. The victims of early marriage have little or no say in if, when and whom they marry and are often pressured into motherhood, putting them at risk of death or injury during childbirth. Probably the worst situation is a girl who married before 18 is more likely to experience physical, sexual and psychological violence throughout her life.⁶

2. Child, Early and Forced Marriage in International Law Instruments

This issue has two legal dimensions. It is a certain human rights violation and a slavery like-practice or trafficking in human beings. In this regard, overall assessment about the issue begins with the human rights approach and will be followed by the issue`s relevant practices in transnational crime terminology. This means that this issue is not confined a single international tool.

Early marriage is a violation of Article 16(2) of the Universal Declaration of Human Rights, which states that “Marriage shall be entered into only with the free and full consent of the intending spouses.” Article 16 could be considered as a first step in dealing with marriage, which led to the reservations of the 1956 Supplementary

⁵ “Child Marriages: 39,000 Every Day – More than 140 million girls will marry between 2011 and 2020” <<http://www.unwomen.org/en/news/stories/2013/3/child-marriages-39000-every-day-more-than-140-million-girls-will-marry-between-2011-and-2020#sthash.IDOcPmXj.dpuf>> 04 August 2016

⁶ Girls Not Brides “Human Rights Council adopts resolution to end child, early and forced marriage” (note 1)

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Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery about early marriage and the prohibition of forced marriage in the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Before 1979, there was no specific reference on child marriage or the minimum age of a marriage. The 1964 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages sets the requirements for a legally entered marriage as full and free consent of both parties, with such consent to be expressed by them in person in Article 1.⁷ However, Article 2 leaves the minimum age factor to states, but may not under fifteen years.⁸ The International Covenant on Civil and Political Rights (ICCPR) highlights the elements of marriage as: "...requiring free and full consent for marriage between men and women of marriageable age, leaving the question of minimum age limitations to each of the parties to the Covenant..."⁹

With enhanced protection of the human rights of children, the Convention on the Rights of the Child (CRC) takes a significant step about child's rights.¹⁰ The importance of this Convention is that it makes the expression of "minimum age" clear and defines it as a child as a person below the age of eighteen.¹¹ A child loses the rights of the right to protection from all forms of physical or mental violence, injury or abuse, maltreatment or exploitation, including sexual abuse, while in the care of parents, guardians, or any other person;¹² the right

⁷ Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, adopted 7 Nov. 1962, G.A. Res. 1763 A (XVII) (entered into force 9 Dec. 1964).

⁸ Ibid. Article 2.

⁹ International Covenant on Civil and Political Rights, adopted 16 Dec. 1966, G.A. Res. 2200 (XXI), U.N. GAOR, 21st Sess., art. 23, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (entered into force 23 Mar. 1976)

¹⁰ Convention on the Rights of the Child, adopted 20 Nov. 1989, G.A. Res. 44/25, U.N. GAOR, 44th Sess., U.N. Doc. A/44/49 (1989), 1577 U.N.T.S. 3 (entered into force 2 Sept. 1990)

¹¹ Jody Sarich et.al. 'Forced Marriage, Slavery, and Plural Legal Systems: An African Example' [2016] 38(2) Human Rights Quarterly 450, 460

¹² Convention on the Rights of the Child. Op.cit (note.10) Article 19(1)

to health and to access to health services;¹³ the right to be protected from harmful traditional practices;¹⁴ the right to education on the basis of equal opportunity;¹⁵ and the right to protection from all forms of sexual exploitation and sexual abuse.¹⁶ Article 30 of the Convention emphasizes that children belonging to an indigenous minority shall have the right to enjoy their own culture and religion.

Early and forced marriage has received increasing attention over the last few years, owing to a range of contributions including remarkable civil society global initiatives such as 'Girls not Brides'.¹⁷ In 2013, the United Nations Human Rights Council passed resolution on strengthening efforts to prevent and eliminate child, early and forced marriage: challenges, achievements, best practices and implementation gaps.¹⁸ In 2014, the Office of the High Commissioner for Human Rights (OHCHR) report and the UN Special Representative of the Secretary-General on Violence against Children have highlighted how early, child and forced marriage affects girls with its different faces which include physical, psychological, economic, and sexual violence, and restrictions on their movement.¹⁹ Because of aforementioned consequences of this brutal exercise such as early childbearing and ending their education, child marriage violates victims' rights and ruins their expectations about future.

Between child marriage and slavery, there is a significant link.²⁰ In parallel with this approach, because of General Assembly and Human

¹³ Ibid. Article 24.

¹⁴ Ibid.

¹⁵ Ibid Articles 28-29.

¹⁶ Ibid Article 34.

¹⁷ Cécile Aptel, 'Child Slaves and Child Brides' [2016] 14(2) *Journal of International Criminal Justice* 305, 318

¹⁸ Adopted without a vote on 27.09.2013 A/HRC/24/L.34/Rev.1

¹⁹ OHCHR, Preventing and Eliminating Child, Early and Forced Marriage, UN Doc. A/HRC/26/22, 2 April 2014 § 21. Also: Special Representative of the Secretary-General on Violence against Children and Plan International, Protecting Children from Harmful Practices in Plural Legal System (2012). See also Plan International, A Girl's Right to Say No to Marriage: Working to End Child Marriage and Keep Girls in School (2013).

²⁰ See Special Rapporteur on Contemporary Forms of Slavery, Including its Causes and Consequences, Report on Servile Marriage, UN Doc. A/HRC/21/41, 10 July 2012 (hereinafter 'Thematic Report on Servile Marriage'). See also Special

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Rights Council resolutions and panel discussions calling for further consideration of child marriage,²¹ the General Assembly adopted a resolution on Child, Early and Forced Marriage.²² This resolution is first-ever step against child, early and forced marriage.²³ It recognises that: “the elimination of child, early and force marriage should be considered in the discussion of the post-2015 development agenda”.²⁴

The former Special Rapporteur` thematic report in 2012 on Contemporary Forms of Slavery noted that '[o]ver the years, however, the idea that forced and early marriages are forms of slavery and, therefore, servile marriage, has been lost'.²⁵ This means that there is not a significant application that emphasizes the relation between child marriage and slavery.²⁶ According to Aptel, “in most cases, children forced into marriage are subjected to a level of ownership and control that meets the general definition of slavery under the 1926 Slavery Convention.”²⁷

It is possible to look at slavery and slavery like practices from the perspectives of trafficking in human being and relevant international

Rapporteur on Contemporary Forms of Slavery, Including its Causes and Consequences, Report on Mission to Madagascar, UN Doc. A/HRC/24/43/Add.2, 24 July 2013, especially, § 125. See Special Rapporteur on Contemporary Forms of Slavery, Including its Causes and Consequences, Report on Servile Marriage, Thematic Report on Challenges and Lessons in Combating Contemporary Forms of Slavery, UN Doc. A/HRC/24/43, 1 July 2013

²¹ See OHCHR, Summary Report on the June 2014 Panel Discussion on Preventing and Eliminating Child, Early and Forced Marriage, UN Doc. A/HRC/27/34, 18 July 2014; General Assembly, Panel Discussion on Child, Early and Forced Marriage of 5 September 2014, available online at

<http://www.un.org/en/ga/president/68/pdf/letters/9152014Child%20Early%20and%20Force%20Marriage%20Panel%20-%20Summary%20-%2015%20September%202014.pdf> (visited 10 December 2015).

²² GA Res. A/RES/69/156, 18 December 2014.

²³ It received cross-regional support from 107 different countries, including

countries with high rates of child marriage including Ethiopia, South Sudan, Sierra Leone, Chad, Guatemala, Honduras and Yemen.

²⁴ Op.cit. (note 22) 7.

²⁵ Thematic Report on Servile Marriage, (note 20) 13.

²⁶ C. Turner, *Out of the Shadows: Child Marriage and Slavery*, Anti-Slavery International, 16 April 2013, at 7.

²⁷ Cécile Aptel, op.cit. (note 17) 319.

instruments. Child, early, forced marriage is also one of the exploitative scopes of trafficking in human beings. The 2000 United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, defined trafficking in human beings as:

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

This commonly approved definition more or less constitutes a consensus definition as a basis for counter-trafficking efforts such as those attempted by the European Union and the Council of Europe, as well as many international governmental and non-governmental organizations.²⁸ In addition, this definition has been widely adopted in domestic penal codes due to the obligations imposed by the UN Trafficking Protocol and other international and European legal instruments to criminalise human trafficking.²⁹

This definition gives the three constituent elements of trafficking in human beings as: (1) the acts – recruitment, transportation, transfer, harbouring or receipt of persons; (2) the means – threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim; and (3) the purposes – exploitation, which includes “the exploitation of the prostitution of others or other forms of sexual

²⁸ Venla Roth, *Defining Human Trafficking and Identifying Its Victims* (Martinus Nijhoff 2011) 296

²⁹ *Ibid.*

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exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”³⁰

There are three main elements to ‘the acts’: economic, social, and criminal. Economic triggers can be summarised as the unequal distribution of wealth between countries of origin and countries of destination, relative economic deprivation and unemployment, expectations of employment and financial reward, and access to material benefits. Social triggers may incorporate abusive family environments, the corrosion of family, social fabrics and traditional support networks, gender discrimination, lack of education, and domestic violence.³¹ The growth and diversification of organized crime and legal deficiencies can be used to illustrate the criminal triggers of trafficking in human beings.³²

‘The means’ of trafficking denotes the traffickers’ methods for controlling victims from the very beginning of the trafficking process to the targeted purposes. ‘The purposes’ of trafficking have three different modes of description: exploitation; slavery or similar practices; and the removal of organs. In this respect, I would like to emphasize that the word ‘exploitation’ is not just about sexual exploitation. It covers forced or bonded labour, domestic servitude and forced marriage, and the exploitation of children for begging, the sex trade and warfare.³³

At this stage, the notion of “consent” can be used to distinguish the relationships between these elements. This notion also provides a means of differentiating migrant smuggling from human trafficking.

³⁰ UNODC, ‘Human Trafficking FAQs’ <http://www.unodc.org/unodc/en/human-trafficking/faqs.html#What_is_the_most_commonly_identified_form_of_trafficking> accessed 04 August 2015

³¹ UNODC, Toolkit to Combat Trafficking in Persons Global Programme against Trafficking in Human Beings (United Nations, 2008) 454-55

³² Nenette Motus, ‘The Trafficking Process from the Perspective of Trafficked Persons’ in B ar ath and others (eds), *The Mental Health Aspects of Trafficking in Human Beings- Training Manual* (IOM, 2004); The European Forum for Urban Safety, ‘Trafficking in Human Beings, International Knowledge and Local Practices’ <<http://efus.eu/en/topics/risks-forms-of-crime/organised-crime-trafficking/efus/485/>> accessed 10 April 2014

³³ UNODC, ‘Human Trafficking’ (note 30)

It is helpful that an emphasis on the importance of the notion of “consent” provides the main point of differentiation. The Trafficking in Persons Protocol established a baseline, which underlines the point that the consent of an adult victim to the intended exploitation is irrelevant if any of the listed ‘means’ are used.³⁴ The consent of a child victim of trafficking is irrelevant regardless of whether or not ‘means’ have been used.³⁵ The Trafficking in Persons Protocol does not say that the use of means must operate to invalidate or damage consent. In brief, the lack of consent is not an element of the crime of trafficking in persons.³⁶

There are mainly three problematic elements about child and forced marriage issue and its assessments under international instruments. Firstly, it is still an applicable practices for societies as a part of tradition or as method of gaining money. Girls and women are forced into marriage without their consents by traffickers and even their own relatives. In the case of Syrian refugee crisis critically assessed in later parts of the study, even the victims` own fathers sell them into marriage with older, but rich, men. Secondly, there is no specific legal instrument about the issue. This causes different practices and preventative strategies against child and forced marriage from one country to another. Finally yet importantly, international organizations, non-governmental organizations and states cannot establish powerful linkage to observe, to criticize, to evaluate and to prevent the issue and its brutal outcomes.

3. Child, Early and Forced Marriage in Turkish Legal System

There is no common definition on child marriage problem in Turkey’s legal structure. The definition of “child bride” varies depending upon laws. According to Turkish Civil Code` Article 11,³⁷

³⁴ Trafficking in Persons Protocol, Art. 3(b).

³⁵ United Nations, The Role of ‘Consent’ in the Trafficking in Persons Protocol (United Nations, 2014) 25 < https://www.unodc.org/documents/human-trafficking/2014/UNODC_2014_Issue_Paper_Consent.pdf> accessed 11 August 2015

³⁶ Ibid, 26

³⁷ Law No. 4721. Text updated Law No. 4963, dated 6/8/2003 published in official Gazette No. 25192 dated 7/8/2003

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the age of majority is eighteen which is the lawful age.³⁸ Article 124 of the Civil Law has risen the minimum age of marriage to seventeen for both men and women, however, the same article of the law allows for marriage at the age of 16 with the consent of the court in “exceptional circumstances”. The Turkish Criminal Code in article 104 expresses that any person who is in sexual intercourse with a child who completed the age of fifteen without using force, threat and fraud, is sentenced to imprisonment from six months to two years upon filing of a complaint.³⁹ According to the Child Protection Law⁴⁰, “child” is any person not attained the age of eighteen.⁴¹ Minor persons are evaluated as people who are not capable of completing their physiological, psychological, moral, sociological and emotional development and are at risk of violation and abuse.⁴²

The different legal practices cause various problematic issues. For instance, without any force and coercion, a girl can be married sociologically –not legally- and spouse does not take any penalty due to lack of complaint.⁴³ Turkey should consolidate the contradictions related to age from the aforementioned laws. As know, the issue is not about only legal controversies. Sociological and traditional facts can be more influential than legal norms.⁴⁴

In cases of forced marriages, in article 149 of Civil Law, the person has the right to apply to the court for finishing marriage; however, the article 152 of the law stipulates that the application should be made in time. Except these two legislative regulation, there are no certain rule for the victims of force marriage cases.

³⁸ Article 11 of Turkish Civil Code.

³⁹ Law No. 5237. Entered into force 26. 09.2004

⁴⁰ Law No. 5395. Entered into force 15.07.2005

⁴¹ Article 3 of the Child Protection Law

⁴² Ibid. Article 3(a)1

⁴³ Selin Berghan, International Mechanisms for Struggling Against Early and Forced Marriages, the Current Situation in Turkey in Early and Forced Marriage in Turkey by Flying Broom < <http://www.girlsnotbrides.org/wp-content/uploads/2012/12/Flying-Broom-Flying-News-publication-on-Early-and-Forced-Marriage.pdf>> 12 August 2016 p.43

⁴⁴ KADEM, Erken Yasta ve Zorla Evliliklere Karsi Mucadele Calistay Raporu < <http://kadem.org.tr/erken-yasta-ve-zorla-evliliklere-karsi-mucadele-calistay-raporu/>> 15 August 2016

4. Syrian Refugee Girls and Women in Marriage Sector and Their Heart-breaking Experiences

The beginning of Syrian Civil War appeared in 2011 in the wake of Arab Spring in the Middle-East region. This war continues today and about 13.5 million Syrian people need humanitarian assistance due to this war.⁴⁵ 4.8 million Syrians are refugees, and 6.5 million are displaced within Syria. Half of those people are unfortunately children.⁴⁶ 2.1 million Syrians registered by UNHCR in Egypt, Iraq, Jordan and Lebanon, 2.7 million Syrians registered by the Government of Turkey, as well as more than 29,000 Syrian refugees registered in North Africa.⁴⁷ 52.7% of the total number of refugees are under eighteen years old and 49.7% of the total number is female refugees.⁴⁸ In this point, Cases of children exposed to child labour and early and forced marriage are increasingly reported since the beginning of 2016.⁴⁹

Refugee camps in Turkey and Jordan have become the main destination of Syrian refugees. Particularly, in Jordan, Lebanon and Saudi Arabia, local male citizens use similar exploitative scenarios and methods to benefit from the Syrian refugees' vulnerable situations.⁵⁰ In these refugees camps, women and girls has becomes the victims of rape and sexual violence and suffered many sexual

⁴⁵ ACAPS, Syria, <<http://www.acaps.org/country/syria>> 11 August 2016

⁴⁶ UNHCR, Syria Regional Refugee Response, <<http://data.unhcr.org/syrianrefugees/regional.php>> 11 August 2016

⁴⁷ UNHCR, The Regional Refugee and Resilience Plan (3RP) Mid-Year Report (Hereafter 3RP Report)(UNHCR, Jordan, June 2016) p.9.

⁴⁸ UNHCR Op.cit. (note 46)

⁴⁹ UNHCR, 3RP Report (note 47) 51.

⁵⁰ Lee Harper, 'Syrian women in Jordan at risk of sexual exploitation at refugee camps' *The Guardian* (London, 24 January 2014)

<<http://www.theguardian.com/global-development/2014/jan/24/syrian-women-refugees-risk-sexual-exploitation>> accessed 21 November 2015; Ruth Sherlock, 'Syrian girls 'sold' into forced marriages' *The Daily Telegraph* (London, 23 January 2013)

<<http://www.telegraph.co.uk/news/worldnews/middleeast/syria/9821946/Syrian-girls-sold-into-forced-marriages.html>> accessed 21 November 2015

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transmitted diseases (STD) and sexual transmitted infection (STI).⁵¹ This part of the study makes an evaluation about the news in Turkish and International media on women`s and girls` situation in both trafficking for sexual exploitation and child, early and forced marriage.

Before this evaluation, it is important to show the meaning of early, child and forced marriage issue from the perspective of sociologic situation of Syrian people. Particularly, child marriage is one of the common practices of Middle East (20% of total marriage number).⁵² Because the ongoing problem, *Sutra* marriage or marriage for protection has become a tool for girls` protection from any expected sexual threat from the regime and rebel powers.⁵³ In addition to this aim, families use their own children as a financial burden to gain money in order to look after the rest of the family.⁵⁴

There are different types of sources in internet about child, early, and forced marriage of Syrian refugee girls and women. When I search the issue, I use two groups of words and their bilingual versions. `Cocuk evliligi ve Suriye- Child marriage and Syria` and `Zorla evlendirme ve Suriyeli Multeciler- Forced Marriage and Syrian refugees` are my research words. I use twenty-three news from various sources, which are located in the first three pages of Google. These news come from both international and national media websites. During this web search, media organs` air capacity is excluded.

From various news sources, twelve articles in Turkish and eleven articles in English were found. Thirteen of total news were aired in 2014. However, three of them were published to demonstrate current situation of the victims in 2016 and in English. Despite women and girls still suffer the outcomes of child and force marriage, Turkey

⁵¹ Samina Noor, War, Violence and Women: a Case Study of Syrian Civil War (2013-2014) [2016] 4 Journal of Siberian Federal University. Humanities & Social Sciences 733, 740

⁵² Nawal M. Nour, Child Marriage: A Silent Health and Human Rights Issue [2009] 2(1) Reviews in Obstetrics & Gynecology 51, 53

⁵³ Op.cit, Noor, War, Violence and Women, p. 739.

⁵⁴ ICRW, Theory of Change: Ending Child Marriage in Bangladesh (ICRW, New Delhi, 2014) p.5

does not devote enough attention to the issue. Former Family and Social Policies Minister Ayşenur İslam stated that within the scope of psychologic and social support for Syrian refugees, the Ministry has begun to inform women and girls against child and forced marriage.⁵⁵ Despite this effort, this problem still remains today.

Foreign sources emphasize the increasing number of child and forced marriage, and give wide coverage to the interviews with child and forced brides. For instance, the UK's former Secretary of the Department for International Development stated that

“It is very hard for Syrian refugee men to get jobs. So they have resorted to various ways to try and manage their family circumstances. The prospect of being able to get a so-called 'bride price' for your daughter whilst also reducing the number of mouths you have to feed in your family by one – for many families it is an almost impossible choice they face but it is one they face. It is awful. It is a terrible, terrible situation these girls find themselves in. It is bad enough as a child being affected by the refugee crisis in Syria, it is bad enough being out of school. But to lose not only your education but the chance for education in the future, the chance for an employment opportunity is a horrible, horrible fate for these girls.”⁵⁶

In this regard, other news sources also demonstrate the main triggers that push the girls and women into these marriages. *Al-*

⁵⁵ Ail eve Sosyal Politikalar Bakanlığı, Bakan İslam: Suriyeli kadınlar erken yaşta evlilik ve zorla evliliğe karşı bilgilendiriliyor- Minister İslam: Syrian women and girls are informed against child and forced marriage (03 February 2014) < <http://www.aile.gov.tr/haberler/bakan-islam-suriyeli-kadinlar-erken-yasta-evlilik-ve-zorla-evlilik-karsi-bilgilendiriliyor>> 11 August 2016

⁵⁶ Nicholas Watt and Patrick Wintour, `Britain to tackle big rise in Syrian refugee girls forced to marry`, *The Guardian* (London, 15 March 2014) < <https://www.theguardian.com/world/2014/mar/15/britain-tackle-rise-syrian-refugee-girls-forced-marriage>> accessed 13 August 2016

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monitor summarize that the main push factors for girls and women, and their families are lack of economic opportunities, insecure conditions for their daughters (the threat of sexual violence).⁵⁷ In other words, challenging life conditions and the precarious economic situation of some families, which encourage them to marry off their daughters to ease their financial responsibilities direct refugees this brutal business.⁵⁸

With this involuntary marriage, some parents feel they have no choice but to marry their daughters to keep them 'protected'.⁵⁹ Some news compare the current numbers of child and force marriage cases with before the civil war erupted in 2011. For instance, according to *International Business Times*, because of extreme poverty and fears of sexual violence has more than doubled.⁶⁰ *Independent* also underlines that the number of marriages involving someone below the age of 18 in Syria stood at 13% before the war.⁶¹

The marriage process is also considered and evaluated by foreign sources. Particularly, *The Telegraph* gives details about the marriage

⁵⁷ Brenda Stoter, 'Financial burden, risk of violence pressure Syrian girls to marry' *Al-monitor* (Mafraq, 17 March 2015) < <http://www.al-monitor.com/pulse/originals/2015/03/syrian-girls-jordan-refugees-early-marriage.html>> accessed 13 August 2016

⁵⁸ Charlie Atkin, 'Syrian girl campaigns against child marriage from her refugee camp in Jordan' *Independent* (19 April 2016) < <http://www.independent.co.uk/news/world/middle-east/child-marriage-refugee-camp-za-atari-jordan-syria-a6991426.html>> accessed 13 August 2016

⁵⁹ Rosie Thompson, 'The trauma of Syria's married children', *Aljazeera* (23 July 2014) < <http://www.aljazeera.com/humanrights/2014/07/trauma-syria-married-children-201472214545541515.html>> accessed 11 August 2016; Megan Cornwell, 'Syrian Refugee Children Forced into Arranged Marriages and Child Labour, New Report Reveals' *The Tablet* (01 August 2016) < <http://www.thetablet.co.uk/news/5931/0/syrian-refugee-children-forced-into-arranged-marriages-and-child-labour-new-report-reveals%201%20agustos%202016>> accessed 13 August 2016

⁶⁰ Umberto Bacchi, 'Syrian Refugee Crisis: Child Marriage Doubled Since War Started' *International Business Times* (17 July 2014) < <http://www.ibtimes.co.uk/syrian-refugee-crisis-child-marriage-doubled-since-war-started-1456952>> accessed 13 August 2016

⁶¹ Charlie Atkin, op.cit. (note 58)

process, its religious basis and fraudulent elements. According to it, hundreds of Syrian females have been affected by an informal trade that has sprung up since the start of the war in Syria, where men use "agents" to source Syrian refugees to use for sex. Often this is done under the guise of "marriage": The 'dowry', which in Muslim society is traditionally paid by the groom as a guarantee of the bride's security has become a payment for sex. And the "marriage", is an affair that lasts only a few days or even hours. "We realised these were *Mut'ah* or 'pleasure marriages'," said Ziyad Hamad, whose charity, Kitab al-Sunna, is one of the largest organisations working with Syrian refugees in Jordan. "It is a fake marriage; they use handwritten documents that are not registered by a *Shiekh* [religious leader]."⁶² This news emphasizes the sexual abuse side of these marriages. In later parts of the research, fraudulent and realistic dimensions of child and forced marriage cases will be evaluated in Turkey's refugee camps.

The most subjects of these marriages are young girls 12, 13 years old.⁶³ According to a 2014 report by Save the Children, one in every four marriages in the Syrian refugee population in refugee camps now involves a girl under the age of 18.⁶⁴ Early marriages causes not only psychological trauma for girls but also physiologic negative outcomes for girls. The consequences for the young girls can be dire. In addition to raising the risks of gynaecological traumatisation and death in childbirth, it often means girls are denied education and economic opportunities and isolated from family and friends.⁶⁵

⁶² Ruth Sherlock and Carol Malouf, 'Syrian girls 'sold' into forced marriages' *The Telegraph* (Jordan, 23 January 2013) < <http://www.telegraph.co.uk/news/worldnews/middleeast/syria/9821946/Syrian-girls-sold-into-forced-marriages.html> > accessed 13 August 2016

⁶³ Anna Holigan, 'Migrant crisis: Dutch alarm over child brides from Syria' BBC (The Hague, 20 October 2015) < <http://www.bbc.co.uk/news/world-europe-34573825> > accessed 13 August 2016

⁶⁴ Save the Children, *Too Young to Wed: The growing problem of child marriage among Syrian girls in Jordan* (London, Save the Children, 2014) p.2

⁶⁵ Fahrinisa Fatima Oswald, 'Forced Into Marriage, Syrian Teen Engulfed by Abuse and Trauma' *Womensenews* (Al Mafrq, 14 June 2016) <

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In Jordan, there is an organised trade in young girls, according to Syrian refugees and local aid workers. They prey on refugee families, living in rented accommodation, who are struggling to get by. Local sources say the going rate for a bride is between 2,000 and 10,000 Jordanian dinars (\$2,800/£1,635 to \$14,000/£8,180) with another 1,000 (\$1,400/£818) going to the broker.⁶⁶

The Atlantic demonstrates the sociological background of child marriage in Syrian refugee camps. Kecia Ali⁶⁷ says the tradition of child marriage occurs in developing countries across the globe. She explains that during times of conflict, this practice tends to evolve in a multitude of ways. "Often, we think of child marriage as a practice of hardened patriarchs who give absolutely no thought to their daughters' wellbeing," says Ali. "But in a situation where sexual violence is feared, marrying a girl off is perceived in some instances as a way to ensure that she's able to make a good match. So it's done out of concern for her welfare."⁶⁸

In parallel with these foreign news, Turkish news sources air some news in order to evaluate the child and forced brides particularly in cities which locate Syrian borders and have refugee camps. The recruitment methods and marriage process are same as aforementioned news. Marriage with Syrian women is treated like a merchant activity. Particularly, in Hatay, Urfa and Kilis, Syrian women perforce to accept being second and sometimes even third wife.⁶⁹ As mentioned above, due to the Syrian refugees' economic

<http://womensenews.org/2016/06/forced-into-an-abusive-marriage-syrian-teen-engulfed-by-trauma/>> accessed 13 August 2016

⁶⁶ 'Syrian conflict: Untold misery of child brides' BBC (Jordan, 20 August 2014) <<http://www.bbc.co.uk/news/world-middle-east-28250471>> accessed 13 August 2016

⁶⁷ A professor of religion at Boston University who specializes in issues of gender-based violence, such as early marriage.

⁶⁸ Sulome Anderson, 'Child Marriages Rise Among Syrian Refugee Girls' *The Atlantic* (28 May 2013)

<http://www.theatlantic.com/international/archive/2013/05/child-marriages-rise-among-syrian-refugee-girls/276287/> 13 August 2016

⁶⁹ 'Suriyeli Mülteci Kadınlar Evlilik Tuzaklarına Düşüyor' *Haberler* (20 January 2014) <<http://www.haberler.com/suriyeli-multeci-kadinlar-evlilik-tuzaklarina-5606436-haberi/>> accessed 13 August 2016

problems, women and girls are sold into child and forced marriage. Men who get married with them think that they protect vulnerable girls and women from prostitution.⁷⁰

According to Turkish laws, a person cannot get married another person when he/she is married. As a result of these regulations, people prefer religious marriage rather than official marriage. Turkish Criminal Code in Article 230 regulates the crimes about multiple or fraudulent marriage. Article 230(6) states that any person who conducts a religious marriage ceremony without seeing the certificate of marriage is punished with imprisonment from two months to six months. In this regard, Presidency of Religious Affairs should raise awareness among Imams and inform them this is a crime.⁷¹ As a part of tradition, in south-eastern Anatolia, more than one marriage is quite normal in daily life. However, a man who wants to get married with a woman as a second wife has to pay more than 200,000 Turkish Liras for her family. Mardin Women Cooperation Association member Hülya Çelebioğlu Aydın states that men give around 5,000 Turkish Liras for marriage with Syrian women. This way is much lower than marriage with Turkish women who accept being second wife.⁷²

5. Recommendations for Solution Methods against the Child, Early and Forced Marriage

Child, early and forced marriage is a violation of human rights. States should adopt legislative and political measures to compensate the violated rights of victims. In this regard, implementations against this crime should be anchored the anti-trafficking measures.

⁷⁰ `Suriyeli Kadınlar Turkiyede Satılıyor` Sozcu (08 April 2014) < <http://www.sozcu.com.tr/2015/gunun-icinden/suriyeli-kadinlar-turkiyede-satiliyor-798535/>> accessed 13 August 2016: `Suriyeli Kadınlar Nasıl Satılıyor?` Akdeniz Gazete (09 April 2014) < <http://www.akdenizgazete.com/haber/suriyeli-kadinlar-nasil-satiliyor/1747/>> accessed 13 August 2016

⁷¹ `Savaştan kaçan Suriyeli kadınlar Türk erkeklerine satılıyor` Mynet (30 July 2014) < <http://www.mynet.com/haber/yasam/savastan-kaçan-suriyeli-kadinlar-turk-erkeklerine-satiliyor-1377152-1>> accessed 13 August 2016

⁷² 'Suriyeli kadınlarla evlenmek daha ucuz!' Gazete Vatan (09 February 2014) < <http://www.gazetevatan.com/-suriyeli-kadinlarla-evlenmek-daha-ucuz---607911-yasam/>> accessed 13 August 2016

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Aforementioned above, modern day slavery is an umbrella term that defines human trafficking which covers various purposes such as forced labour, sexual exploitation and slavery or practices similar to slavery.

Andreatta highlights that an adequate response to the violation of human rights requires the adoption of a holistic and multi-disciplinary approach that places the protection of victims' needs at the centre of any anti-trafficking measures, policy, and legislation.⁷³ Haynes indicates that under a human rights approach, 'victims must be protected from traffickers, protected from prosecution for illegal immigration, labour violations, or prostitution, and empowered to step out of the cycle of victimization.'⁷⁴ This is why, the primary objective of policies and programmes should be to promote and protect victims' human rights.⁷⁵

States' anti-trafficking obligations should target this business in order to reduce its profits and increase the risks for perpetrators. In other words, in fulfilling the necessary obligations previously outlined (such as greater deterrence, or social awareness resulting in a decrease of the demand), states need to show that the trafficking business is not a high profit enterprise or 'a rational choice.' Piotrowicz highlights that anti-trafficking obligations concentrate on making the trafficking business difficult to carry out, and approach the crime by

⁷³ Cristina Andreatta, 'Protection, assistance and social (re)integration of human trafficking survivors: a comparative analysis of policy approaches and practices in the UK and in Italy' London: University of East London Centre for Social Justice and Change Working Paper No 2

<<http://www2.uel.ac.uk/csjs/documents/no2CristinaAndreattaJan2015.pdf>> accessed 03 January 2016, 9

⁷⁴ Dina Francesca Haynes, 'Used, Abused, Arrested and Deported: Extending Immigration Benefits to Protect the Victims of Trafficking and to Secure the Prosecution of Traffickers' [2004] 26(2) Human Rights Quarterly 221, 252

⁷⁵ Youla Haddadin and Ilona Klímová-Alexander, 'Human Rights-Based Approach to Trafficking the Work of the United Nations Office of the High Commissioner for Human Rights' [2013] 52(1) The Judges' Journal
<http://www.americanbar.org/publications/judges_journal/2013/winter/human_rightsbased_approach_to_trafficking_the_work_of_the_united_nations_office_of_the_high_commissioner_for_human_rights.html> accessed 01 January 2016.

using a well-funded, competent legal regime.⁷⁶ In line with Piotrowicz, Haynes emphasizes that one of the duties of these obligations is to make trafficking less economically appealing to traffickers.⁷⁷ In this point, it is important to consider theoretical approaches that highlight the economic triggers of human trafficking. States need to treat human trafficking as a business that violates victims' human rights. In other words, to prevent traffickers' choices, this business should become a less profitable business and too risky.

States should produce obligations relating to protection and assistance for the victims. The OSCE's Reference Guide for Anti-Trafficking Legislative Review states that:

*Many trafficking victims are heavily traumatized because they were subjected to physical, psychological and/or sexual violence and are in need of medical treatment and psychological counselling. Especially women who worked in the sex industry in particular fear stigmatization and rejection by their families and social environment. Furthermore, in order to enable trafficked persons to integrate or re-integrate into the labour market, education and vocational training programmes, as well as assistance with finding employment are essential.*⁷⁸

The UNODC outlines that origin and destination countries must: "consider implementing measures to provide for the physical, psychological and social recovery of trafficked victims".⁷⁹ According to the UNODC, governments should provide support in the following forms: medical; psychological; language and translation,

⁷⁶ Ryszard Piotrowicz, 'Human security and trafficking of human beings: the myth and the reality' in Human Security and Non-Citizens Law, Policy and International Affairs (eds) Alice Edwards and Carla Ferstman, (Cambridge University Press 2010) 410

⁷⁷ Dina Francesca Haynes, op.cit. (note 74)

⁷⁸ OSCE-ODIHR, 'Reference Guide for Anti-Trafficking Legislative Review' (2001) <<http://www.osce.org/odihr/13986>> accessed 21 December 2015, 87-88

⁷⁹ UNODC, *Toolkit* (note 31) 350

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rehabilitation; skill training and education; and shelter. Similarly, Piotrowicz summarizes that the tools for victim protection should provide solutions for victims' needs such as medical treatment, access to competent translators and interpreters, and access to legal advisors.⁸⁰ In this regard, the ECtHR has held that the spectrum of safeguards set out in national legislation must be adequate to ensure the practical and effective protection of the rights of victims or potential victims of trafficking.⁸¹

States should participate with all relevant institutions in prevention, prosecution and protection processes. The UNODC states that state actors should assume full participation, responsibility and accountability in defining objectives, implementing activities and achieving the outcomes of national anti-trafficking responses.⁸² In addition to the coordination of government institutions, cooperation between law enforcement institutions and NGOs is important. The UNODC emphasizes that both the development and implementation of programmes and measures against trafficking must involve stakeholders who are independent of the state and outside the Government and public administration.⁸³ Besides these domestic cooperation activities, states should establish coordination with international organizations. Piotrowicz and Haynes emphasize the

⁸⁰ Ryszard Piotrowicz, *op.cit.* (note 76) 410

⁸¹ *ECtHR, Case of Rantsev v. Cyprus and Russia, Application no. 25965/04, (ECHR 07 January 2010)*, para 284 Despite the fact that the ECtHR has generated much praise over the years Rulings of the ECtHR have been a cause of considerable dissatisfaction. Sometimes an outcome seems manifestly unjust, sometimes the court's reasoning appears to descend into opacity right at the most important moment, sometimes the court seems unreasonably stubborn, and sometimes the very narrow remit of the court itself is reason for dissatisfaction. Despite its deficiencies, the practices of the ECtHR provide opportunity to follow the evolution of human rights in Europe and to analyse the outcomes of the Court in accordance with the human rights perspective. Marie-Benedicte Dembour, *Who Believes in Human Rights?: Reflections on the European Convention (Law in Context)*, (Cambridge, Cambridge University Press, 2006): Stephen Humphreys, 'Who Believes in Human Rights? Reflections on the European Convention by Marie-Bénédicte Dembour' [2007] 70(4) *The Modern Law Review* 709

⁸² UNODC, *Toolkit op.cit.* (note 31)54

⁸³ *Ibid*

importance of promoting international cooperation as an anti-trafficking tool.⁸⁴ International cooperation is a crucial element in the resolution of human trafficking.⁸⁵

In these regards, Turkey needs to consider further steps to prevent this crime and to protect minor and forced victims. In addition to these tools, Turkey should highlight the moral sides of the issue for establishing public perception. Law enforcement officials' perception and public perception with the Government's training programs for government agencies and awareness raising campaigns for society may reduce the numbers of victims.

Conclusion

Child, early and forced marriage are crimes related to violation of human rights. However, these crimes can be used for women or their families to obtain financial opportunities in severe political and social crisis. In this regard, after Syrian refugee crisis came up, these crimes become more common event in the region and places where refugees are accommodated.

Turkey, because of its geographical location, has the biggest refugee population. Apart from political, local and other sociological problems such as refugees problems related to adaptation of Turkey's urban life and society's negative approaches, Turkey faces child, early and forced marriage cases. This is a twofold problem. On the one hand, Turkish society is affected by these crimes side effects. Particularly, patriarchal families create 'demand' side of these crimes based on religious and traditional elements. On the other hand, refugee girls and women suffer from these crimes in order to eliminate their families' financial anxieties.

⁸⁴ Piotrowicz, 'Human security' (n 76) 410; Haynes (n 74) 260

⁸⁵ Casey Hall, 'Strengthening Coordination of Efforts to Combat Human Trafficking' <<https://www.odu.edu/content/dam/odu/offices/mun/un-day-human-trafficking.pdf>> accessed 01 January 2015, 1; Alexey Vladimirovich Boretsky, Sergey Gennadjevich Pen and Alexander Vladimirovich Borovkov, 'Anti-Trafficking in the Commonwealth of Independent States: The Main Areas and Mechanism of International Cooperation' [2015] 6(3) *Mediterranean Journal of Social Sciences* 94, 94

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Countries such as Turkey, Lebanon and Jordan which have almost %95 of total registered refugee population should take into consideration some certain points.⁸⁶ First, the Governments should accept these are a violation of human rights. To protect the potential victims, they need to establish legal and policy tools. In addition to these implementations, the governments should support their practices with public awareness campaigns. Unless local people demand these kinds of marriages, families' or relatives' of female refugees and dealers who find the customers for these vulnerable victims cannot constitute the supply side of these crimes. Second, the governments should benefit from the field experience of the NGOs to help, protect and rehabilitate the victims. Last but probably the most important point is the governments have to admit child, early and forced marriage are crime and slavery liked practices that ruin the dreams, expectations and honours of not only adult female victims but also minor victims.

⁸⁶ UNHCR, Syria Regional Refugee Response Total Persons of Concern are 5,029,562 op.cit (note 46)< <http://data.unhcr.org/syrianrefugees/regional.php>> accessed 28 April 2017

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