

Child Marriage in Kosovo (UNSC 1244) (Summary)



We had no choice. My family and my uncle's family lived in a very small house. We had to leave the house as soon as we could because we had no space. So my father arranged a marriage for me.

—Child spouse

Legal context

Although Kosovo¹ is not a member of the United Nations or the Council of Europe, several international mechanisms, laws, and regulations are applicable. The Universal Declaration of Human Rights, included in Kosovo's Constitution, recognizes the right to consent to marriage. The Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) are also in the Constitution. NGO representatives interviewed for this research observed that laws protecting children's rights are poorly implemented in practice, and that there are few state resources available for services to protect children and promote their interests.

Under the Family Law of Kosovo, a child is a person under age 18. It is unclear whether an adolescent under 18 who marries attains legal capacity.

Marriages can only take place with the full and free consent of both parties, and both would-be spouses must be over 18. However, courts may allow a minor over the age of 16 to marry if the person has reached the 'necessary physical and psychological maturity' for exercising marital rights and fulfilling marital obligations.

The Family Law regulates against forced marriage by coercion, threat, mistake, or 'any other lack of free will of the future spouses'. Forced marriage is punishable by imprisonment under the Criminal Code, and committing this offence against a child involves steeper sentences. Parents or guardians also face imprisonment for allowing children to cohabit with adults, as do adults cohabiting with minors aged 14 to 16. Material gain resulting from child or forced marriage (e.g. payment of dowries) can also be prosecuted as a criminal offence.

Family planning and reproductive rights

According to the Law on Health, all citizens must have access to healthcare, and compulsory basic health insurance should be provided. Teenagers and young people, as well as 'marginalised persons', are identified as special categories, for whom the Ministry of Health should provide access to sexual and reproductive health. Individuals and couples have the legal right to access information about family planning, and to access and use contraception.

¹ Throughout this document, we will hereafter use the descriptive 'Kosovo' for Kosovo under UNSC 1244.

*In Kosovo (UNSC 1244)
today, child marriage
is relatively rare, but it
continues to be practised
among certain communities
and/or ethnic groups, most
notably, but not exclusively,
Roma, Ashkali, Egyptians,
and Gorani.*



Persons under 18 must be accompanied by an authorised representative to receive health care. Since it is not stated explicitly that children become adults upon marriage, parents, guardians, or Centres for Social Work (CSW) representatives may need to be present, impacting on the right of child spouses to access reproductive health services. Interviews suggest that some young couples' parents may become involved in their reproductive choices.

By law, all individuals are 'guaranteed' the 'right to information and education for sexual and reproductive health', but how this should be implemented is unclear. In grade seven (age 12), children learn about puberty and menstruation, but little more. Some of the child spouses interviewed reported knowing nothing or very little about contraception when they married.

The 2009 Demographic and Household Survey found that among women aged 15 to 19, more than 93 per cent could name one method of contraception, and 88.8 per cent knew of at least one modern method. Married women tended to know more than single women.

Child marriages in Kosovo

Although statistical data is unavailable, in the past, it appears that child marriage was fairly widespread in Kosovo. Right through to the late 20th century, there were various political, social, and economic reasons to marry early: to enable emigration to escape economic and political turmoil; to lessen the strain on parents' finances (particularly for girls living in larger households); to ensure economic and physical security and 'protection' from sexual violence; to avoid the dishonour of pregnancy out of wedlock; and because life-spans were shorter. In some rural areas and among some Roma, Ashkali, and Balkan Egyptians (hereafter, 'Egyptians'), girls were considered ready for marriage following puberty, at age 13 to 15.

Anecdotal information suggests that child marriage increased during the 1990s, especially during the war in 1999. Parents believed early marriage could protect their daughters. Young women who were left as heads of households hoped marriage would enable them to provide for their siblings. Other young women wanted to ensure that they could remain with their boyfriends who were emigrating.

Security in Kosovo has improved since 1999, and according to official figures, people now tend to marry later than they did before the war. However, couples do not always register their marriage immediately, waiting until they are expecting a child or plan to travel abroad to register their marriage with the authorities. Immediate registration is particularly rare in child marriages.

Altogether the 108 officially registered child marriages in 2010 accounted for 0.59 per cent of all marriages, and only involved 16- and 17-year-old girls. No cases of child marriage among boys were registered; however, four cases of child marriage involving boys aged 14 to 16 were identified during this study. Girls in child marriages tended to be between five and ten years younger than their spouses.

Child marriages thus continue to occur in Kosovo, particularly among Roma, Ashkali, Egyptian, and Gorani ethnic groups, though they occur among other ethnic groups as well, particularly in rural areas where traditional influences may be stronger. The child spouses interviewed observed that early marriage was prevalent in their families and communities.

Nowadays, reasons cited for early marriage include love, family pressure, security, socioeconomic conditions, unplanned pregnancy, peer pressure, and tradition.

The payment of dowries ('çeyiz') no longer appears to be practised among the Albanian majority. However, the practice of 'baba hak', where the groom's father pays the bride's father, remains common among Roma, Ashkali, and Egyptians. Respondents detailed cases of dowries ranging from €40 to €4,000. Some child spouses interviewed said their recent marriages involved dowries.

When the authorities investigate suspected cases of child marriage, community leaders may intervene to negotiate between police and parents. Sometimes authorities *choose* not to become involved, believing it should be up to the family and spouses to decide, or not wishing to interfere with 'tradition'.

The consequences of child marriage can include domestic violence (including isolation from friends and family), divorce, unplanned pregnancy, complications in pregnancy, discontinuation of education, and lack of access to employment

opportunities. Girl child spouses are often economically dependent on their husband's family. This can place them in an even weaker position and can be a sign of other forms of domestic violence. Many of the child spouses who were interviewed reported suffering domestic violence 'several times'. Child marriages arranged for the purpose of emigration can place child spouses at particular risk of isolation and domestic violence, in a new society where they have no support network, and do not speak the language.

Roma, Ashkali, and Egyptians

Anecdotal evidence suggests that child marriage remains prevalent among Roma, Ashkali, and Egyptians, with some marrying as young as 12. In a 2008 survey of 270 Roma, Ashkali, and Egyptian women, one-third believed early marriage could facilitate healthy childbirth, and 60 per cent felt parents should decide who their daughters marry.

NGO representatives agreed that education would provide opportunities beyond marriage and better information about rights. Further, if young people remain in school they may be less likely to marry. The authorities did not do enough to encourage education, respondents felt.

Responses to child marriage

Government efforts. The Gender Adviser at the Ministry of Local Government Administration published pamphlets on child marriage, and the Agency for Gender Equality (AGE) in the Prime Minister's Office and UNFPA financed a film produced by the Network of Roma, Ashkali, and Egyptian Women's Organisations (RROGRAEK) in 2012 on child marriages. RROGRAEK screened the film on Radio Television Kosova, as well as in various communities, followed by discussions.

The **Youth Assembly** has organized awareness-raising events for secondary-school students and their parents about child marriage.

Supporting education. The Balkan Sunflowers, an NGO working in various Roma, Ashkali, and Egyptian communities, encourages children to continue their education. Via debates they foster critical thinking about traditional practices, while their Learning Centres in ten municipalities have preschool, language, education, and women's programmes that seek to shift gender norms and target the causes of child marriage. A recent survey suggests that their mediators have contributed to increased enrolment and educational attainment in targeted communities.

Recommendations

- Revisions to the Family Law should clarify whether children become adults following marriage or remain children, and the legal and administrative procedures through which decisions are made to allow a child to marry. The implications for access to reproductive health services should be considered. A multi-sector mechanism involving relevant stakeholders should be established to ensure the rights of minors are protected in child marriages. The mechanism should address the continuation of education of both husband and wife and include counselling about marital relations, property rights, health, and reproductive rights.
- Offences relating to child marriage outlined in the Criminal Code should be prosecuted *ex officio* (automatically); 'tradition' should not suffice as justification for failing to implement the existing legal framework.
- Awareness-raising about rights and options outside violent domestic relationships should target society in general, with the aim of preventing domestic violence and reaching out to survivors with information about assistance.
- The Ministry of Education, Science, and Technology (MEST) should establish procedures to ensure *all* children complete mandatory primary and lower secondary-level education. This includes establishing procedures between relevant stakeholders for monitoring and reporting cases of potential and actual dropout. Social assistance specific for education (e.g., for transport, clothes, and books) could reduce school dropout, encourage increased attendance among impoverished children, and help prevent child marriage, particularly among Roma, Ashkali, and Egyptians.
- The Statistical Office of Kosovo should include a category for persons under age 18 in all data. All data collected should be made publicly available for analysis by independent scholars, policy-makers, and other institutions. In addition, electronic files with detailed demographic information should be maintained, and Kosovo-wide, unified databases should be created across the ministries and directorates of labour and social welfare, education, and health, and the Kosovo Judicial Council. These measures would enable better monitoring of the prevalence of child marriage and more effective case management.
- Coordination between institutions (e.g. police, schools, and Centres for Social Work) should be outlined in memoranda of understanding.

Instructions should be developed for relevant institutions, clarifying their mandates, and as well as their monitoring and referral responsibilities related to early marriages.

- In accordance with the law, the Ministry of Education, Science, and Technology should include subjects in the school curriculum that will provide more detailed education on reproductive health, including contraception, family planning and reproductive rights.
- NGOs should continue providing information via media and outreach to parents and young people in communities where early marriage appears to be prevalent. Television may be effective for communicating information about rights to women and girls who are isolated.
- Relevant institutions have a duty to ensure that: shelters for survivors of domestic violence are sufficiently funded; the broader legal framework on protection against domestic violence is implemented; and all citizens are aware of their rights and how to access assistance, particularly persons in early marriages who may be particularly vulnerable to violence, yet lack information about available assistance. Services should be developed to support economic empowerment and the reintegration of domestic violence survivors into society. Specialised services should be developed to meet the specific needs and rights of children who are often witnesses to and survivors of domestic violence.

Recommendations (specific for Roma, Ashkali, and Egyptians)

All of the general recommendations are relevant for Roma, Ashkali, and Egyptians. In addition, relevant institutions should:

- Carry out interactive awareness-raising activities targeting Roma, Ashkali, and Egyptians, discussing and seeking to: change attitudes towards the practice of early marriage; encourage education; and increase awareness about the existing legal framework, especially related to women's and children's rights.
- Build on Balkan Sunflowers' best practices, utilising mediation and local centres as educational, informational support hubs for young people.
- Encourage families to support their children's education.



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