

In 2011, Kenya made a moderate advancement in efforts to eliminate the worst forms of child labor. The Government passed the Tourism Act, which aims to protect children against commercial sexual exploitation. Kenya also increased the number of child protection officers, conducted a child labor household survey in three districts and participated in numerous initiatives to assist vulnerable children and children engaged in exploitative work. Legislation gaps continue to exist. For example, Kenya has drafted, but not yet adopted, a list of hazardous work prohibited to children and laws against forced labor and underage military recruitment contain no penalties. In addition, Kenya has failed to commit sufficient resources to enforcement efforts. Children continue to be involved in the worst forms of child labor, particularly in dangerous activities in agriculture and fishing.

### Statistics on Working Children and Education

Children	Age	Percent
Working	5-14 yrs.	32.5 (2,943,310)
Attending School	5-14 yrs.	74.9
Combining Work and School	7-14 yrs.	32.3
Primary Completion Rate		Unavailable

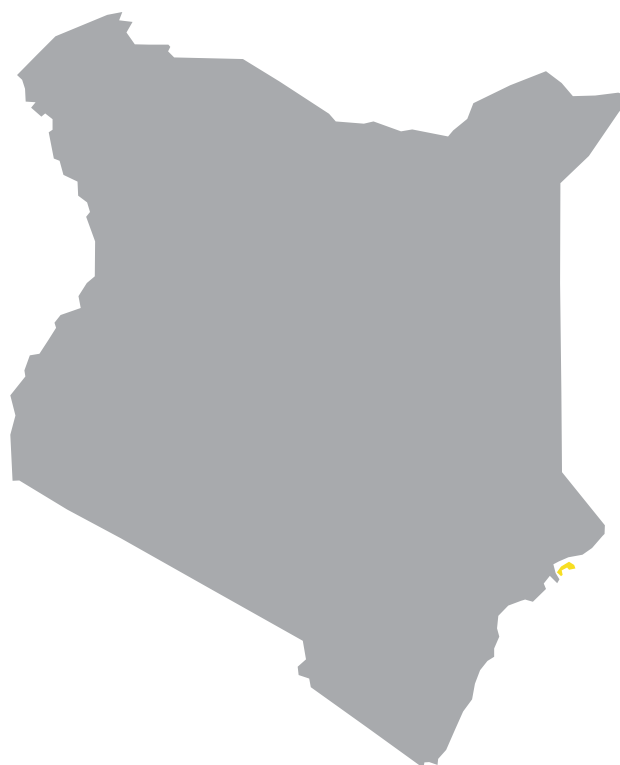
#### Sources:

**Primary completion rate:** UNESCO Institute for Statistics, 2012.(1)

**All other data:** Understanding Children's Work Project's analysis of statistics from MICS Survey, 2000.(2)

### Prevalence and Sectoral Distribution of the Worst Forms of Child Labor

Children are engaged in the worst forms of child labor in Kenya, many of them in dangerous child labor in agriculture and fishing.(2-6) Children work on tea and sugar plantations, ranches and in the production of coffee, *miraa* (a stimulant plant), rice, sisal and tobacco. Although evidence is limited, children also reportedly pick cotton, herd livestock and work in the production of flowers.(4, 6-17) Children involved in agriculture often work long hours, work with dangerous tools machinery, carry heavy loads and are exposed to toxic substances and harmful pests.(3) Children also engage in fishing, including for tilapia and sardines and work in related activities, such as transporting fish. Children working in the fishing industry are susceptible to risks such as drowning.(15, 16, 18)



Children in Kenya work as domestic servants. Many such children are from rural districts.(14, 15, 17) Children employed as domestics may work long hours and are isolated in private homes in which they are vulnerable to physical and sexual abuse by their employers.(3, 6, 14) Children are also employed in construction, transportation and the production of textiles.(3, 4, 19) In the transportation industry children carry heavy loads and are exposed to traffic accidents. In the textile industry, children are exposed to spores that cause respiratory disease, poor working conditions resulting in skeletal diseases, and chemical poisoning.(3)

In Kenya, there are large numbers of street children, many of whom are forced to beg and perform labor.(14, 20) Some street children also traffic drugs and guns.(16, 21) Children working on the streets may be vulnerable to severe weather, traffic accidents and crime. In dumpsites, children collect and sell scrap materials, such as metal and glass, often exposing themselves to tetanus and other infectious diseases by sorting through waste with their bare hands.(3, 22-24) Children also allegedly work in slaughterhouses, cleaning entrails and mopping floors.(25) Children are also reportedly recruited by and participate in activities with armed militias such as al-Shabaab.(6, 16)

Children in Kenya are subject to forced labor, debt bondage, prostitution and sex tourism.(6, 14, 26-29) Child prostitution is prevalent in Nairobi, Kisumu, Eldoret, Nyeri and the coastal areas.(30-33) UNICEF estimated in 2006 that between 10,000 and 15,000 girls are engaged in prostitution in the coastal areas alone. Other reports indicate that the number of sexually exploited children may be as high as 30,000.(6, 19, 31). Although the majority of children engaged in commercial sexual exploitation in Kenya are girls, an increasing number of boys are becoming involved.(6, 34)

Children are employed in mining. Although evidence regarding what ore children mine is limited, reports suggest that children are mining for gemstones and gold in artisanal pits.(3, 16, 19, 35) Children also reportedly work in abandoned gold mines. These children may be exposed to toxic materials, increasing their chances of developing respiratory diseases.(3, 14, 35) Limited evidence also suggests that children work in coral and stone quarries without protective gear and may be vulnerable to respiratory illnesses from silica exposure.(6, 10, 14, 16, 17, 36)

Children are trafficked for forced labor in street vending, domestic service, agricultural labor, herding, sex tourism and prostitution.(6, 27, 37-39) Poverty or the death of one or both parents may contribute to a family's decision to place a child with better off relatives, friends or acquaintances who may end up trafficking the child.(14, 40)

Access to education is a critical component in preventing the economic exploitation of children.(41, 42) School levies and exam fees hinder access to education in Kenya.(17) Teacher shortages also hinder access to education and contribute to overcrowding, despite government efforts in 2011 to hire 5,000 new teachers.(42-45) As of 2010, 44 percent of Kenyan children in rural areas were not registered at birth, even though this service is free and compulsory as mandated by the Births and Deaths Registration Bill, passed in 2011.(46-48) Unable to prove citizenship, unregistered children have difficulty accessing essential services, including schooling.(6, 46, 47) School administrators may inadvertently contribute to the problem of schooling access by expelling some girls from school due to pregnancy.(43) Sexual abuse from teachers and students is also a problem in Kenya.(6, 47, 49) In 2011, 160 cases of sexual misconduct were filed against teachers.(6) Since 2009, an estimated 1,150 teachers have been dismissed for sexually assaulting their students. A 2009 report shows that 12,660 female students were identified as having been abused by teachers.(6, 42)

## Laws and Regulations on the Worst Forms of Child Labor

The Employment Act sets the minimum age for employment at 16 and the minimum age for hazardous work at 18. It also prohibits the employment of children in the worst forms of child labor, including in illicit activities.(50) However, the Industrial Trainings Act allows minors under age 15 to apprentice in an industrial undertaking without setting a minimum age. This is problematic as the Employment Act is subject to the provisions in the Industrial Trainings Act.(50-52) In 2008, the Government completed its list of hazardous occupations for children, prohibiting children's work in all hazardous sectors such as agriculture, domestic service, transportation, mining, stone crushing, herding of animals, deep lake or sea fishing, work in warehouses and work in the urban informal sector. However, this list has not been adopted.(3, 53-55)

	C138, Minimum Age	✓
	C182, Worst Forms of Child Labor	✓
	CRC	✓
	CRC Optional Protocol on Armed Conflict	✓
	CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	No
	Palermo Protocol on Trafficking in Persons	✓
	Minimum Age for Work	16
	Minimum Age for Hazardous Work	18
	Compulsory Education Age	15
	Free Public Education	Yes

The Children's Act of 2001 guarantees protection from exploitation, including trafficking, and prohibits all forms of hazardous child labor, prostitution and the recruitment of children into the military.(56) However, child labor as defined by the Children's Act only applies to labor in exchange for payment. As a result, unpaid child workers do not benefit from these protections.(56) The Sexual Offences Act of 2006 prohibits child prostitution, promotion of child sex tourism and child trafficking for the purposes of sexual exploitation.

Both the sexual Offenses Act of 2006 and the Penal Code prohibit child pornography.(57, 58)

The Kenyan Constitution prohibits forced labor, slavery and servitude.(59) However, the Constitution does not provide penalties for these offenses and Penal Code penalties only apply to cases of abduction.(60) The Counter Trafficking in Persons Act provides protections for trafficking victims and prohibits the recruitment, transport, transfer or harboring of persons, including children, for the purpose of forced labor, and lays out appropriate penalties for offenses.(61) However, the Counter Trafficking in Persons Act does not have a sufficient implementation structure in place.(14, 16, 62)

The Children's Act prohibits the recruitment or use of children under age 18 in armed conflict, but the Act does not prescribe penalties for violators of the law.(56)

The Children's Act provides for free and compulsory education until the age of 15.(14, 56) However, school fees such as uniforms and books continue to deter enrollment.(14, 63-65) Additionally, children 15 years of age are particularly vulnerable to the worst forms of child labor as they are not required to be in school and are below the minimum age for work.(50, 56, 66)

In 2011, in efforts to curb international trafficking, the Government issued a directive mandating international employers and employment agencies to submit regular reports on the jobs they offer and the location, terms of service and remuneration of work.(67) In 2011, the Government also passed the Tourism Act and the Employment and Labor Relations Court Bill. The Tourism Act provides a unified legislative framework for tourism-related activities and calls for the creation of a Kenya Tourism Regulatory Authority to monitor hotels and issue guidelines to help prevent child sex tourism.(14, 68, 69) The Employment and Labor Relations Court Bill established a new court with national jurisdiction to settle labor disputes related to conditions of work, including the health, safety and welfare of employees, including children.(69)

### **Institutional Mechanisms for Coordination and Enforcement**

The National Council for Children Services (NCCS) is responsible for the coordination of policy on children's issues, including child labor, down to the district level.(14, 63, 70) The NCCS is a semi-autonomous government agency led by a presidential appointee and consists of members of the police, NGOs, private sector representatives, faith-based organizations and representatives from various ministries.(70)

There is also a National Steering Committee on Child Labor (NSCCL), chaired by the Ministry of Labor (MOL).(14, 70) The committee is a multisectoral policy body composed of government departments, private employers, workers organizations and civil society organizations. The NSCCL oversees efforts to eliminate child labor.(14, 70) During the reporting period, the NSCCL met only twice.(14, 16, 17)

Other entities participate in child labor coordination, including the MOL's Division of Child Labor and the District Child Labor Committees.(15, 63) The Division of Child Labor helps to coordinate efforts under the Employment Act and leads efforts to monitor action programs for the elimination of child labor at the district and community level.(4, 14) It also manages an information resource center to improve the collection and dissemination of data on child labor throughout the country.(4) Reports indicate the Division of Child Labor lacks financial and ministerial support and, with only one full-time staff member, the division is not adequately staffed.(8, 17, 71) District Child Labor Committees serve as a coordination point for those involved in child labor efforts and are present in 30 districts.(14, 63) Evidence suggests that since many District Child Labor Committees rely on volunteers, their success varies depending on whether they can obtain funding and whether members regularly participate.(8, 14, 34, 71)

The Counter Trafficking in Persons Advisory Committee coordinates anti-trafficking efforts.(61) The Committee, led by the Ministry of Gender, Children and Social Development (MGCS), comprises civil society representatives, trade unions, the Kenya National Commission for Human Rights, the Federation of Kenyan Employers, the Police Commissioner, the Attorney General and the Ministries of Labor, Foreign Affairs and Immigration.(61) The Committee serves to monitor and report on national anti-trafficking efforts, including policies, programs, evaluation, social assistance, data collection and international cooperation.(61)

The MOL, in coordination with the MGCS, enforces laws under the Employment Act and inspects businesses in the formal labor sector.(47, 70) During the reporting period, the MOL employed 30 labor inspectors to cover enforcement of labor laws, including of child labor laws, in 180 districts.(14) The MOL lacks adequate personnel, facilities, transportation and fuel to carry out its duties.(6, 14, 34, 72, 73) Labor inspectors may terminate an employment agreement between a child and an employer in any labor situation.(50) However, inspectors do not have the ability to issue fines or penalties when they encounter a workplace violation.(74) In 2010, the

latest date such information is available, the MOL carried out 12,229 labor inspections and, as a result, 10 children were removed from work and placed in school.(14)

The MGCSO, in coordination with the Kenyan Police, is responsible for enforcing laws related to the worst forms of child labor under the Penal Code, Anti-Trafficking Act, and Child Act. The MGCSO conducts quarterly inspections in all areas related to child labor.(63, 67, 70) The MGCSO employed 500 child labor officers in 2011, up from 450 in 2010.(6, 14) During the reporting period, 40 officers were trained on identifying and treating trafficking victims.(67) The MGCSO also maintains volunteer officers to address child protection at the community level.(14, 70) Protection officers cannot arrest offenders or prosecute crimes against children; instead, they have access to prosecutors from the Attorney General's office for these purposes.(75) Although its budget was increased from \$76 million to \$99 million in 2011, the MGCSO lacks the necessary resources, such as office facilities and transportation, to carry out their duties.(14, 67) During the reporting period, the MGCSO launched a process to plan for decentralization as directed under Kenya's new Constitution. Through the devolution of power, MGCSO will begin providing services at the county level.(62)

The MGCSO and police exchange information through district child labor committees.(19) The police's anti-trafficking unit and the criminal investigation department are responsible for enforcing laws related to trafficking, commercial sexual exploitation of children and the use of children in illicit activities.(19) The Government also established tourism police to protect vulnerable groups, including children, from sex tourism.(76) The number of officers employed by the anti-trafficking unit is unknown. Kenya has a system to refer child victims found during investigations to appropriate services.(14, 77)

The Kenyan Government operates a national steering committee, chaired by the Ministry of Gender Permanent Secretary, to advance the investigation of cases initiated by calls to "childline," a toll-free, nationwide hotline that provides counseling and referrals to callers who need assistance with child labor and child prostitution situations.(14, 78, 79) In 2011, the IOM provided three border communities and participants from government ministries with training on trafficking issues, including identification of victims and assistance referral.(39)

In 2011, the MGCSO found 3,055 child labor violations, 76 cases of child trafficking and 23 cases of prostitution. All children were assisted or removed from the situation and perpetrators were identified in all cases (14). Information is not

available about the number of prosecutions or if penalties were applied.(14)

## Government Policies on the Worst Forms of Child Labor

The National Action Plan for the Elimination of Child Labor in Kenya (2004-2015, revised 2008) serves as a government instrument to prevent and eliminate child labor in Kenya.(4, 80) This plan aims to eliminate the worst forms of child labor by 2015 by targeting vulnerable populations and addressing the root causes of child labor, such as poverty, the lack of access to education and weak government institutions. This plan prioritizes law enforcement, awareness raising and universal basic education.(4, 81) Research found no information about whether the Child Labor Division was provided with a budget to implement its many roles and responsibilities under this plan. In addition, Kenya drafted, but did not adopt, a Child Labor Policy which also aims to eliminate child labor by 2015. The plan will address discrepancies between the Employment Act and the Children's Act regarding protection for children engaged in work.(12, 56, 74) Kenya is also in the process of drafting district action plans to combat child labor in support of the National Action Plan.(14)

Child labor concerns are mainstreamed into Kenyan development agendas and key policy documents including the Vision 2030, the Medium Term Plan (2008-2012), UNDAF (2009-2013) and the Policy for Alternative Provision of Basic Education and Training (2009).(4, 8, 34, 82-84) Other policy initiatives that do not explicitly consider child labor issues but may impact them include the Orphans and Vulnerable Children (OVC) Policy and the National Action Plan (2003).(72, 85) The question of whether these two OVC policies have an impact on the worst forms of child labor does not appear to have been explicitly addressed.

## Social Programs to Eliminate or Prevent the Worst Forms of Child Labor

In 2011, the MGCSO continued to operate four referral centers in areas with high rates of child labor. Each center provides counseling and reintegration services for up to 200 children and serves as a link to other child protection centers.(14, 16) The Ministry of Education funded a \$3.6 million program to provide girls in vulnerable areas of the country with sanitary pads to help manage menstruation and prevent female school drop-outs.(86, 87) It conducted an awareness-raising campaign targeting trafficking between Kenya and the Middle East. It also conducted a child labor household

survey in three districts. The results of the survey are scheduled to be released in 2012.(14, 67)

Kenya participated in the ILO Decent Work Program for Kenya (2007-2011) which aims, among other goals, to improve policies on youth employment, provide decent work opportunities for youth and conduct research focusing on the link between youth employment, child labor, HIV/AIDS, globalization and poverty.(88) In addition, the Government includes child labor issues in its school books and broadcasts on school radio programs.(34)

The Government, in partnership with the Solidarity Center, launched a program to combat child trafficking in the tea, coffee and sugar sectors. This program trains union stewards on trafficking issues and raises awareness about labor practices that promote child labor such as sub-contracting and outsourcing.(14)

Kenya participated in several other internationally-funded projects to combat the worst forms of child labor. The Government participated in the second phase of the USDOL-funded, 4-year, \$4.6 million Timebound Program. The project aims to withdraw and prevent a total of 8,155 children from exploitative labor through the provision of direct educational service.(8) The Program will also provide 1,000 families with access to micro-credit, socio-economic programs, employment creation schemes and skills development education.(8) Kenya began participating in the USDOL-funded, 4-year Global Action Program on Child Labor Issues Project. This \$15 million regional project aims to build the capacity of national governments and develop strategic policies to address the elimination of child labor and forced labor; improve the evidence base through data collection and research; and strengthen legal protections and social service delivery for child domestic workers.(89) The Government also participated in a 4-year project funded by the European community to combat child labor through education in 11 countries.(90) In addition, Kenya participated in a 5-year, \$23 million regional youth entrepreneurship project, aiming to contribute to decent work opportunities for youth by providing funding through grants for youth entrepreneurship ideas.(91)

Kenya continued to collaborate with the East African Police Chiefs Cooperation Organization in order to strengthen its ability to combat human trafficking. This organization consists of 11 East African countries and works to strengthen regional cooperation and capacities among East African law enforcement authorities.(92) The Government also participated in the Regional Program for Eastern Africa (2009--2012), which includes activities that support the ratification and

implementation of the Palermo Protocol and the development of border control systems.(93) In collaboration with the IOM, Kenya also participated in a regional project to counter human trafficking. In 2011, this project created a regional task force to draft guidelines for victim assistance and provided training on victim assistance.(94)

In support of efforts to reduce the high incidence of child prostitution in the coastal regions, the Ministry of Tourism and Wildlife, UNICEF and the World Tourism Organization lobbied companies in the hospitality industry to adopt and implement a Code of Conduct designed to protect children from sex tourism.(6, 19, 77) It also supported efforts to reduce the high incidence of child prostitution in the coastal regions by revoking the business licenses of establishments that allow child sex tourism.(28) However, the Government's efforts to protect children from prostitution and sex tourism have not been sufficient to address the magnitude of these problems.(8, 28)

The Government continued to implement a project in coordination with the World Bank to provide OVC with cash transfers.(8, 95) As of October 2011, this project supported 112,267 households, allowing families of working children to meet their basic needs, including school costs.(19, 96) In fiscal year 2011-2012, Kenya committed \$32 million to this cash transfer program and in 2011 it provided a 50 percent increase in funding provided to families. Despite these efforts, reports indicate that support remains insufficient in areas with the highest levels of orphans.(14, 97)

Kenya also implements a Hunger Safety Net Program. Although this program has provided assistance to 289,480 chronically food insecure beneficiaries, including many children, reports question the Program's effectiveness as many payment transfers were delayed.(97, 98) The Kenyan Government, in partnership with Equity Bank and USAID, continued to implement the Wings to Fly Program, which offered secondary school scholarships to children from needy backgrounds.(14, 62) The Government also introduced a limited number of mobile schools to help improve school enrollment in pastoral areas.(14, 15, 99).

Finally, Kenya continued to implement a School Meals Program, funded at \$8.5 million, which assisted an estimated 1,115,000 vulnerable school children. This program showed improvement in enrollment and attendance rates in the targeted schools.(98, 100) No assessment of the impact of the School Meals Program, Wings to Fly Program, Hunger Safety Net Program and OVC program on reducing the worst forms of child labor has been identified.

**Based on the reporting above, the following actions would advance the elimination of the worst forms of child labor in Kenya:**

Area	Suggested Actions	Year(s) Action Recommended
Laws and Regulations	Harmonize the Employment Act and the Industrial Trainings Act to ensure that protections laid out in the Employment Act apply to apprentices.	2010, 2011
	Ensure that proper penalties are prescribed for the compulsory recruitment of children under age 18 into armed conflict, either by the Government or militias.	2011
	Ensure all forms of child labor, including child labor in the informal sector, receive legal protection.	2011
	Enact the list of hazardous occupations for children.	2011
	Develop an implementation structure for the Counter Trafficking in Persons Act.	2011
	Amend the Penal Code to provide penalties for all forms of slavery, forced labor and servitude.	2010, 2011
	Take initial steps, including by prioritizing resources for the education system, to raise the compulsory education through the age of 15 in order to match the minimum age for work.	2009, 2010, 2011
	Ensure children's right to free education as stipulated in the Children's Act.	2010, 2011
Coordination and Enforcement	Encourage the National Steering Committee on Child Labor to meet regularly.	2011
	Ensure the Child Labor Division has resources such as staff to carry out their responsibilities.	2010, 2011
	Strengthen the capacity of the MOL, the MGCSO, the Kenyan police, the police's anti-trafficking unit and the Criminal Investigation Department to carry out their mandate by allocating resources such as office facilities, transportation and adequate staffing to carry out investigations and provide services to victims.	2009, 2010, 2011
	Implement measures to make assessing penalties and fines easier.	2010, 2011
	Take measures to protect against exploitation in sectors with a high prevalence of child labor, including the informal sector.	2011
	Make information publicly available about how many child labor investigations, citations and criminal investigations and prosecutions are initiated and the final penalties applied.	2009, 2010, 2011
	Policies	Strengthen national policies against the worst forms of child labor by: <ul style="list-style-type: none"> <li>• Assessing the impact that the OVC Policy and National Action Plan may have on addressing the worst forms of child labor.</li> <li>• Enacting the National Child Labor Policy to provide implementation guidelines for the National Action Plan on Child Labor.</li> </ul>
Take measures to ensure children are safe in school and have access to quality education.		2010, 2011

Area	Suggested Actions	Year(s) Action Recommended
Social Programs	Expand efforts to assist OVC and children engaged in prostitution and sex tourism, including by raising awareness among the tourist population.	2009, 2010, 2011
	Assess the impact that the School Meals Program, Wings to Fly Program, Hunger Safety Net Program and OVC program has on reducing the worst forms of child labor.	2011
	Address issues of access to education by recruiting and training new teachers, expanding school infrastructure and implementing birth registration campaigns.	2010, 2011

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