

Kenya

MODERATE ADVANCEMENT

In 2013, Kenya made a moderate advancement in efforts to eliminate the worst forms of child labor. The Government approved the National Plan of Action Against Sexual Exploitation of Children in Kenya and a new Decent Work Country Program, which includes targets for the elimination of child labor. The Government also continued to implement its National Safety Net Program for Results, which provides cash transfers to over 156,000 vulnerable households, and participates in several programs to combat the worst forms of child labor. However, children in Kenya continue to engage in child labor in agriculture and fishing. Moreover, gaps in legislation persist, including the lack of protection for children performing noncontractual work. Kenya also has not yet adopted its draft list of hazardous work prohibited to children or committed sufficient resources to enforcement efforts.



I. PREVALENCE AND SECTORAL DISTRIBUTION OF CHILD LABOR

Children in Kenya are engaged in child labor in agriculture and fishing.(1-6) Table 1 provides key indicators on children’s work and education in Kenya.

Table 1. Statistics on Children’s Work and Education

| Children | Age | Percent |
|-------------------------------|-----------|------------------|
| Working (% and population) | 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 (%) | | 90.7 |

Source for primary completion rate: Data from 2005, published by UNESCO Institute for Statistics, 2014.(7)

Source for all other data: Understanding Children’s Work Project’s analysis of statistics from Multiple Indicator Cluster Survey 2, 2000.(8)

Based on a review of available information, Table 2 provides an overview of children’s work by sector and activity.

Table 2. Overview of Children’s Work by Sector and Activity

| Sector/Industry | Activity |
|-----------------|--|
| Agriculture | Production of tea, coffee, miraa, rice, sisal, sugarcane, tobacco, maize,* and cotton* (1, 5, 6, 9-14) |
| | Herding livestock* (5, 14) |
| | Fishing, including for tilapia* and sardines* (5, 15, 16) |
| | Production of flowers* (5, 6, 17) |
| Industry | Burning wood to produce charcoal* (5, 16, 18) |
| | Transporting goods and people by bicycle, motorcycle, and handcarts (5, 18) |
| | Construction,* including carrying heavy loads (5, 14) |
| | Quarrying, including for stones* and coral* (5, 6, 10, 18) |
| | Sand* harvesting (5, 16, 18, 19) |
| | Making bricks* (14, 18) |
| | Mining for gold,* gemstones,* and salt* (5, 6, 10, 14, 20-22) |

Table 2. Overview of Children’s Work by Sector and Activity (cont)

| Sector/Industry | Activity |
|---|--|
| Services | Domestic work (5, 6, 16, 19, 23) |
| | Street work, including vending (1, 6, 14) |
| | Scavenging for scrap materials (5, 6, 16, 24) |
| | Begging (5, 25) |
| Categorical Worst Forms of Child Labor‡ | Commercial sexual exploitation sometimes as a result of human trafficking (5, 6, 16, 26, 27) |
| | Use of children in illicit activities, such as drug trafficking (14, 22) |
| | Begging and work on tobacco farms, sometimes as a result of human trafficking (5, 6, 12, 26, 27) |
| | Recruitment of children by ethnically-based militias and al-Shabaab extremist group* (6) |

* Evidence of this activity is limited and/or the extent of the problem is unknown.

‡ Child labor understood as the worst forms of child labor *per se* under Article 3(a) – (c) of ILO C. 182.




Children in Kenya scavenge dumpsites and streets for scrap material, including metal and glass.(5, 16) These children earn about \$1–2 per day, while often risking injury and exposing themselves to infectious diseases such as tetanus by sorting through waste. Evidence suggests such children are also exposed to mercury.(5, 6) The commercial sexual exploitation of children is also a problem in Kenya, especially in Nairobi, Kisumu, Eldoret, Nyeri, and the coastal areas.(5, 6, 16, 26, 28) The majority of children engaged in commercial sexual exploitation are girls, but boys are also involved.(5, 6) Although there were no reports that the Government recruited child soldiers, there were reports that ethnically-based militias and the *al-Shabaab* extremist group recruited children.(6)

While education in Kenya is free, access to education is limited for a number of reasons.(29) Teacher shortages in Kenya hinder children’s access to education and contribute to overcrowding in schools.(30) School administrators also limit access to education by denying pregnant girls admittance to schools.(30) Difficulties in accessing education are made worse by the prevalence of sexual abuse in schools.(6, 31) In addition, even though the law makes birth registration compulsory, many children in rural areas are not registered at birth. Unable to prove citizenship, nonregistered children have difficulty accessing services such as education.(6, 32)

II. LEGAL FRAMEWORK ON THE WORST FORMS OF CHILD LABOR

Kenya has ratified most key international conventions concerning child labor (Table 3).

Table 3. Ratification of International Conventions on Child Labor

| Convention | Ratification |
|--|--------------|
|  ILO C. 138, Minimum Age | ✓ |
| ILO C. 182, Worst Forms of Child Labor | ✓ |
|  UN CRC | ✓ |
| UN CRC Optional Protocol on Armed Conflict | ✓ |
| UN CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography | |
|  Palermo Protocol on Trafficking in Persons | ✓ |

The Government has established relevant laws and regulations related to child labor, including its worst forms (Table 4).

Table 4. Laws and Regulations Related to Child Labor

| Standard | Yes/No | Age | Related Legislation |
|---|--------|-----|--|
| Minimum Age for Work | Yes | 16 | Article 56 of the Employment Act; Article 4 of the Children Act (33, 34) |
| Minimum Age for Hazardous Work | Yes | 18 | Articles 2 and 53.1 of the Employment Act (33) |
| List of Hazardous Occupations Prohibited for Children | No | | |

Table 4. Laws and Regulations Related to Child Labor (cont)

| Standard | Yes/No | Age | Related Legislation |
|---|--------|-----|--|
| Prohibition of Forced Labor | Yes | | Article 30 of the Constitution; Article 4.1 of the Employment Act; Article 266 of the Penal Code (33, 35, 36) |
| Prohibition of Child Trafficking | Yes | | Article 3 of the Counter Trafficking in Persons Act; Article 13 of the Sexual Offences Act; Article 13.1 of the Children Act; Articles 174 and 262 of the Penal Code (34, 36-38) |
| Prohibition of Commercial Sexual Exploitation of Children | Yes | | Articles 8-9, 11-12, and 14-17 of the Sexual Offences Act; Articles 2 and 53.1 of the Employment Act; Article 15 of the Children Act (33, 34, 38) |
| Prohibition of Using Children in Illicit Activities | Yes | | Articles 2 and 53.1 of the Employment Act; Article 16 of the Children Act (33, 34) |
| Minimum Age for Compulsory Military Recruitment | N/A* | | |
| Minimum Age for Voluntary Military Service | Yes | 18 | Article 10.2 of the Children Act (34) |
| Compulsory Education Age | Yes | 14 | The Basic Education Act (39-41) |
| Free Public Education | Yes | | Article 7.2 of the Children Act; Articles 28-29 and 32 of the Basic Education Act; Article 53(b) of the Constitution (34, 35, 40) |

*No conscription or no standing military.

Child labor as defined by articles 52(a) and 52(c) of the Employment Act and article 10.5 of the Children Act only applies to contractual employment. As a result, children performing noncontractual work do not benefit from these protections.(33, 34) Article 58.1 of the Employment Act allows children ages 13 to 16 years to engage in industrial undertakings when participating in apprenticeships or indentured learnerships. Industrial undertakings are defined by Article 2 of the Employment Act to include work in mines, quarries, factories, construction, demolition, and transportation.(33) These types of work are on Kenya's draft hazardous work list for children.(42) However, the list has not been adopted yet.(5, 43)

In 2013, Kenya enacted the Basic Education Act, which stipulates penalties for parents who fail to send their children to school. The Act also makes it a criminal offense to employ a child of compulsory school age in any labor activity that prevents the child from attending school.(40) However, in Kenya, children are required to attend school only until the age of 14. This standard makes children ages 14-15 particularly vulnerable to the worst forms of child labor as they are not required to be in school but are not legally permitted to work.(39, 41) In addition, although the law provides for free education and the Basic Education Act prohibits schools from charging tuition fees, the cost of unofficial school fees, books, and uniforms keeps some children from attending school.(44-47)

III. ENFORCEMENT OF LAWS ON THE WORST FORMS OF CHILD LABOR

The Government has established institutional mechanisms for the enforcement of laws and regulations on child labor, including its worst forms (Table 5).

Table 5. Agencies Responsible for Child Labor Law Enforcement

| Organization/Agency | Role |
|---|---|
| Ministry of Labor, Social Security and Services (MLSSS) | Enforce labor laws, including those related to child labor, through county labor officers in Kenya's 47 counties.(5, 48, 49) In the case of the MLSSS' Child Labor Division, implement activities to eliminate child labor and address child protection issues at the community level.(5) |
| MLSSS' Department of Children's Services | Coordinate services provided to children, ensure that child protection activities are being implemented countrywide, and maintain records on children and the services provided to them.(5) |
| National Police Service | Enforce laws related to the worst forms of child labor.(5) |
| Anti-Trafficking Police Unit | Enforce laws related to the commercial sexual exploitation of children, child trafficking, and the use of children in illicit activities.(5) |

Table 5. Agencies Responsible for Child Labor Law Enforcement (cont)

| Organization/Agency | Role |
|---------------------|---|
| Tourism Police Unit | Enforce laws related to the commercial sexual exploitation of children among hotels and tour operators.(50) |

Law enforcement agencies in Kenya took actions to combat child labor, including its worst forms.

Labor Law Enforcement

In 2013, the Ministry of Labor, Social Security, and Services (MLSSS) employed 95 labor inspectors and 500 child protection officers.(5) Labor inspectors do not have the ability to issue fines or penalties when they encounter a workplace violation.(51) However, the MLSSS withdrew over 8,300 children from the worst forms of child labor as a result of their labor inspection efforts.(5) Research found no information on the number of labor inspections, child labor law violations found, how many citations were issued, or whether appropriate penalties were applied.(5, 52) During the year, labor officers attended a 4-day training course on the enforcement of child labor laws.(5)

The Government allocated approximately \$116,000 to MLSSS' Child Labor Division during the reporting period.(5) However, the MLSSS' budget is inadequate to address Kenya's labor enforcement needs.(52)

Criminal Law Enforcement

In 2013, police officers arrested seven Tanzanian nationals suspected of forcing disabled children and adults to beg in Mombasa.(53) Four individuals were also arrested for trafficking children under the Counter Trafficking in Persons Act.(27) In addition, the MLSSS identified 47 cases of child trafficking in Migori, Busia, Mombasa, and Kwale counties. Child victims were referred to social services and counseling, and some were reintegrated with their families.(27) Approximately 120 members of the National Police Service received training on trafficking in persons during the year.(27) Other criminal law enforcement personnel also received training on trafficking in persons from the IOM, U.S. Immigration and Customs Enforcement, and the International Law Enforcement Academy in Botswana.(27) Research did not find comprehensive statistics on the enforcement of criminal laws related to the worst forms of child labor.(5)

IV. COORDINATION OF GOVERNMENT EFFORTS ON THE WORST FORMS OF CHILD LABOR

The Government has established mechanisms to coordinate its efforts to reduce child labor, including its worst forms (Table 6).

Table 6. Mechanisms to Coordinate Government Efforts on Child Labor

| Coordinating Body | Role & Description |
|--|---|
| National Council for Children's Services (NCCS) | Coordinate on a quarterly basis government efforts on child-related issues, including child labor.(5) Operate the National Children Database, which collects comprehensive data on children, including child labor.(5) Led by a presidential appointee and composed of 18 non-governmental organizations, private sector representatives, faith based organizations, and representatives from various ministries.(54) |
| National Steering Committee on Child Labor (NSC) | Oversee efforts to eliminate child labor.(5) Composed of government departments, private employers, workers organizations, and civil society organizations. Secretariat duties performed by the MLSSS' Child Labor Division.(5) |
| National Labor Board | Coordinate and ensure the implementation of the Employment Act, which prohibits the worst forms of child labor. Chaired by the Permanent Secretary of the MLSSS.(5) |
| Counter Trafficking in Persons Advisory Committee | Coordinate the implementation of policies related to human trafficking and provide prevention and protection measures to victims. Mandated by the Counter Trafficking in Persons Act.(37) |
| Local, Advisory, and District Child Labor Committees | Coordinate activities to eliminate child labor at the local level.(5) |

Although the NCCS is supposed to meet quarterly, it only met twice during the reporting period.(5) The Counter Trafficking in Persons Advisory Committee did not meet in 2013. However, the MLSSS asked other ministries to assign a representative to the Committee.(27)

V. GOVERNMENT POLICIES ON THE WORST FORMS OF CHILD LABOR

The Government of Kenya has established policies related to child labor, including its worst forms (Table 7).

Table 7. Policies Related to Child Labor

| Policy | Description |
|---|--|
| National Action Plan for the Elimination of Child Labor (2004–2015) | 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 and lack of access to education. Prioritizes law enforcement, awareness raising, and universal basic education.(1) |
| National Plan of Action Against Sexual Exploitation of Children in Kenya (2013–2017)† | Aims to prevent, protect, and reintegrate child victims of commercial sexual exploitation. Places emphasis on identifying children engaged in commercial sexual exploitation, raising awareness of community leaders, parents, and tourism employees on commercial sexual exploitation, and implementing programs to assist victims.(55) |
| Decent Work Country Program (2013–2016)† | Seeks to eliminate the worst forms of child labor by establishing a referral system for victims and implementing child labor legislation and policies.(56) |
| UN Development Assistance Framework (2009–2013) | Promotes improved access to education for vulnerable children and seeks the protection of children from abuse, violence, and exploitation.(57) |
| Vision 2030: Second Medium Term Plan (2012–2017) | Identifies child labor as a major challenge facing Kenya and aims to finalize and implement the National Policy on Child Labor.(58) |
| County Integrated Development Plan (CIDP) (2013–2017)† | Serves as a guide for a county's development planning processes. Required by all 47 counties in Kenya.(59) In the case of Kiambu county, for example, addresses child labor in coffee and tea estates.(60) |
| The National Children Policy (2008) | Seeks to protect children from exploitative labor, trafficking, and commercial sexual exploitation through the enforcement of relevant laws.(61) |
| Kenya National Social Protection Policy (2011)* | Aims to reduce the vulnerability of Kenyans to social, economic, and environmental shocks. Seeks to provide children with access to education and health services.(62) |
| Framework for The National Child Protection System for Kenya (2011) | Describes the laws and policies that protect children from violence and exploitation and the roles and responsibilities of the Government to protect children from exploitative work.(63) |
| Policy for Alternative Provision of Basic Education and Training (2009)* | Provides guidelines for the development and implementation of alternative basic education and training for vulnerable groups.(64) |

* The impact of this policy on child labor does not appear to have been studied.

† Policy was launched during the reporting period.

In 2013, the Government approved the National Plan of Action Against Sexual Exploitation of Children in Kenya. However, the plan did not include a corresponding budget.(55) The Government also drafted, but did not adopt, the National Policy on Child Labor, which seeks to eliminate child labor by 2015.(5) Research could not determine how the National Policy on Child Labor would complement the National Action Plan for the Elimination of Child Labor.

VI. SOCIAL PROGRAMS TO ADDRESS THE WORST FORMS OF CHILD LABOR

In 2013, the Government of Kenya funded and participated in programs that include the goal of eliminating or preventing child labor, including its worst forms (Table 8).

Table 8. Social Programs to Address Child Labor

| Program | Description |
|--|--|
| Child Helpline 116 | Government implemented emergency toll-free nationwide hotline to report child abuse, including child labor, and refer callers to organizations for social protection services.(5, 55, 65) In 2013, the Child Helpline received 25 calls regarding child trafficking and 276 calls regarding child labor.(27) |
| Child Protection Centers | Government implemented child protection centers that provide counseling and reintegration services for children in Malindi, Mombasa, Garrisa, and Eldoret. In 2013, four additional centers were built in Siaya, Kakamega, Nairobi, and Nakuruat.(26, 27) |
| Child Labor Free Zones | Government implemented child labor free zones, with support from the ILO and Cooperazione e Sviluppo (CESVI), an Italian NGO, which target fish farms and commercial fishing operations. In 2013, there were 70 child labor free zones in 50 villages and 20 beaches.(5) |
| Child Labor Free Supply Chain Certifications | Government program, with support from CESVI, that develops child labor free supply chain certifications. Kenya's largest vegetable processor was awarded a certificate in February 2014.(5, 66) |

Table 8. Social Programs to Address Child Labor (cont)

| Program | Description |
|---|---|
| Timebound Program–Phase II | \$4.6 million USDOL-funded, 4-year project implemented by ILO-IPEC, which ended in 2013, that withdrew and prevented over 8,400 children from exploitative labor through the provision of direct educational services. Provided over 1,500 families with access to income generating activities and savings and credit groups.(67) |
| Global Action Program on Child Labor Issues Project | USDOL-funded project implemented by the ILO in approximately 40 countries to support the priorities of the Roadmap for Achieving the Elimination of the Worst Forms of Child Labor by 2016 established by the Hague Global Child Labor Conference in 2010.(68) Aims to improve the evidence base on child labor through data collection and research. It also aims to strengthen legal protections and social service delivery for child domestic workers in Kenya.(68) |
| Tackling Child Labor through Education project | Jointly launched by the European Commission and the ILO to combat child labor through education in 12 African and Caribbean countries and the Pacific group of states.(69) Aims to withdraw and prevent children from engaging in child labor, improve child labor related legislation, build the Government's capacity to implement child labor policies, and enhance the knowledge base on child labor in Kenya.(70) |
| National Safety Net Program for Results*‡ | Government implemented 5-year cash transfer and social safety net program, with support from the World Bank, that assists families of working children, orphans, and vulnerable children to meet their basic needs and pay for school related costs. Currently, the program benefits over 156,000 households across Kenya.(5, 71) The Government of Kenya has provided approximately \$411 million to the program.(5) |
| Trafficking in Persons Survey†‡ | Government survey to determine the prevalence of human trafficking in Kenya. The survey began in February 2014.(27) |
| School Meals Program* | Government program that provides school meals to vulnerable children. Since its inception, has provided over 1.5 million children with school meals, which has resulted in improved school attendance.(72) |
| Wings to Fly Program* | Government program, in partnership with the Equity Group Foundation, that provides secondary school scholarships to children from needy backgrounds. Provided education support to 2,000 children in January 2014.(73) |
| Kitui County Child Rescue Center†‡ | Government program that aims to withdraw and rehabilitate child laborers through the provision of counseling and life skills. In 2013, the Government funded the center at approximately \$34,500.(74) |
| Refugee Assistance Programs* | In 2013, the Government, with support from UNICEF, provided educational and nutritional services to 240,000 children.(75) |
| Regional Counter-Trafficking Project | Government project, with support from the IOM, that aims to combat human trafficking through prevention, protection, and support for victims.(76) |

* The impact of this program on child labor does not appear to have been studied.

† Program was launched during the reporting period.

‡ Program is funded by the Government of Kenya.

Although Kenya has programs that target child labor, the scope of these programs is insufficient to fully address the extent of the problem, especially the commercial sexual exploitation of children.

VII. SUGGESTED GOVERNMENT ACTIONS TO ELIMINATE THE WORST FORMS OF CHILD LABOR

Based on the reporting above, suggested actions are identified that would advance the elimination of child labor, including its worst forms, in Kenya (Table 9).

Table 9. Suggested Government Actions to Eliminate Child Labor, Including its Worst Forms

| Area | Suggested Action | Year(s) Suggested |
|-------------|---|-------------------|
| Laws | Ratify the CRC Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography. | 2013 |
| | Ensure that relevant child labor laws and regulations apply equally to children working in noncontractual employment and contractual employment. | 2011 – 2013 |
| | Amend the Employment Act to ensure that children participating in apprenticeships and indentured learnerships are prohibited from engaging in unsafe industrial undertakings. | 2013 |
| | Enact the list of hazardous occupations prohibited for children. | 2011 – 2013 |
| | Raise the compulsory education age to 16 to be equivalent to the minimum age for work. | 2013 |
| Enforcement | Ensure that law enforcement agencies are provided with sufficient resources to address Kenya's labor enforcement needs. | 2009 – 2013 |
| | Implement measures to make assessing penalties and fines for child labor violations easier. | 2010 – 2013 |

Table 9. Suggested Government Actions to Eliminate Child Labor, Including its Worst Forms (cont)

| Area | Suggested Action | Year(s) Suggested |
|---------------------|--|-------------------|
| Enforcement | Make comprehensive information publicly available about how many inspections and citations regarding child labor are carried out and applied, and how many criminal investigations regarding worst forms of child labor are carried out, and cases prosecuted. | 2009 – 2013 |
| Coordination | Encourage the NCCS to meet regularly. | 2013 |
| | Ensure that the Counter Trafficking in Persons Advisory Committee coordinates activities to combat human trafficking. | 2013 |
| Government Policies | Assess the impact that existing policies may have on addressing child labor. | 2013 |
| | Include a budget in the National Plan of Action Against Sexual Exploitation of Children in Kenya. | 2013 |
| | Adopt the National Policy on Child Labor. | 2009 – 2013 |
| Social Programs | Improve access to education by training new teachers, ensuring that pregnant girls can remain in school, addressing sexual abuse in schools, and ensuring that children are registered at birth. | 2010 – 2013 |
| | Ensure that children can attend primary school by subsidizing or defraying the cost of school fees, books, and uniforms. | 2013 |
| | Assess the impact that existing social programs have on reducing the worst forms of child labor. | 2011 – 2013 |
| | Expand efforts to assist child laborers, including children engaged in commercial sexual exploitation. | 2009 – 2013 |

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