

# Kenya

## Government Policies and Programs to Eliminate the Worst Forms of Child Labor

In 1992, the Government of Kenya became one of the first six members of ILO-IPEC.<sup>1959</sup> In order to improve institutional capacity to eliminate child labor, the government is working with ILO-IPEC and other development partners to build the capacity of the Ministry of Labor and Human Resources, the Department of Children's Services in the Ministry of Home Affairs, Heritage and Sports, and the Ministry of Education to enforce child labor legislation.<sup>1960</sup> ILO-IPEC has also worked with the Central Organization of Trade Unions, the Federation of Kenya Employers and various NGOs to strengthen institutional capacity to address child labor issues.<sup>1961</sup> By 2001, 67 ILO-IPEC programs on child labor had been launched targeting the commercial agriculture, construction, cross-border trade, domestic service, fishing, hotel and tourism, and quarrying and mining sectors.<sup>1962</sup> Kenya is also participating in an ILO-IPEC regional program funded by USDOL to prevent children from entering, and withdraw and rehabilitate children engaged in, hazardous work in the commercial agriculture sector in East Africa.<sup>1963</sup> In September 2001, the Government of Kenya and ILO-IPEC released the results of an ILO-IPEC SIMPOC survey that collected national data on the incidence of child labor in Kenya from 1998 to 1999.<sup>1964</sup>

The Government of Kenya has also received support from UNICEF, which is working to help formulate policy on issues affecting children and monitoring and evaluating efforts in the public sector and civil society to address child labor issues. Since 1999, UNICEF and the Government of Kenya have implemented projects for children in need of special protection. These programs have focused on street children, AIDS orphans and AIDS prevention, and on building the capacity to implement a broad based child welfare agenda.<sup>1965</sup> In 2001, USAID allocated money for a "Displaced Children and Orphans Fund" to support programs that would allow children from HIV/AIDS-affected families (including orphans) to benefit from home-based care and other programs.<sup>1966</sup>

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<sup>1959</sup> ILO-IPEC, *Kenya Country Program 1992-2001: Brief Profile of Activities*, Nairobi, May 2001, 1. See also ILO-IPEC, *All About IPEC: Programme Countries*, [online] August 13, 2002 [cited November 15, 2002]; available from [http://www.ilo.org/public/english/standards/ipecc/about/countries/t\\_country.htm](http://www.ilo.org/public/english/standards/ipecc/about/countries/t_country.htm).

<sup>1960</sup> Central Bureau of Statistics- Ministry of Finance and Planning, *The 1998/99 Child Labor Report*, ILO, September 2001, 7-9 [cited August 13, 2002]; available from <http://www.ilo.org/public/english/standards/ipecc/simpoc/kenya/report/ken98.pdf>.

<sup>1961</sup> *Ibid.*, 7-9.

<sup>1962</sup> ILO-IPEC, *Brief Profile of Activities*, 1.

<sup>1963</sup> ILO-IPEC, *Regional Program on the Prevention, Withdrawal and Rehabilitation of Children Engaged in Hazardous Work in the Commercial Agriculture Sector in Africa*, project document, RAF/00/P51/USA, Geneva, September 2000.

<sup>1964</sup> See generally Central Bureau of Statistics- Ministry of Finance and Planning, *The 1998/99 Child Labor Report*.

<sup>1965</sup> UNICEF, *Country Project Proposals, 1999-2003*, Nairobi, October 1998, 33.

<sup>1966</sup> Such children often are at risk for entering work. USAID, *USAID Congressional Budget Justification, 2002: Kenya*, [online] May 29, 2002 [cited September 10, 2002]; available from <http://www.usaid.gov/pubs/cbj2002/afr/ke/>.

In 1989, Kenya replaced its free system of education with a “cost sharing” system in which students pay both tuition and other associated schooling costs, totaling up to 65 percent of the recurrent costs of schools.<sup>1967</sup> This policy has reduced access to education for many poor children, and has led to a steady increase in the number of dropouts in Kenya.<sup>1968</sup> Furthermore, a teachers’ strike from September to October 2002 and continued problems in the education sector have led to disruptions in the provision of schooling.<sup>1969</sup>

## **Incidence and Nature of Child Labor**

Between 1998 and 1999, the Kenyan Central Bureau of Statistics estimated that 17.4 percent of all children ages 5 to 17 years were working in Kenya.<sup>1970</sup> According to the survey, children made up 14.4 percent of the total workforce in Kenya.<sup>1971</sup> More children living in rural areas (19.7 percent) worked compared to children living in urban areas (9.0 percent).<sup>1972</sup> The commercial or subsistence agriculture and fishing sectors employ the largest number of working children (57.6 percent), followed by the domestic service sector (17.9 percent).<sup>1973</sup> Children also work in construction, wholesale and retail trade, mining, and manufacturing.<sup>1974</sup> Children employed in the hotel industry are often drawn into commercial sex work.<sup>1975</sup> Street children are often engaged in odd jobs in the informal sector, prostitution, or various illegal activities often under the control of

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<sup>1967</sup> U.S. Department of State, *Country Reports on Human Rights Practices- 2001: Kenya*, Washington, D.C., March 4, 2002, 378-82, Section 5 [cited December 24, 2002]; available from <http://www.state.gov/g/drl/rls/hrrpt/2001/af/8386.htm>. See also Kenya CRC Coalition, *Supplementary Report to Kenya’s First Country Report on the Implementation of the UN Convention on the Rights of the Child*, Nairobi, March 2001, 5.

<sup>1968</sup> Integrated Regional Information Network, *Kenya: Focus on Challenges in the Education Sector*, IRINnews.org, [online] July 22, 2002 [cited September 17, 2002]; available from <http://www.reliefweb.int/w/rwb.nsf/6686f45896f15dbc852567ae00530132/c12980402b76b23085256bfe005d27e7?OpenDocument>.

<sup>1969</sup> Integrated Regional Information Network, “Kenya: Feature - Compromise Deal Ends Teachers’ Strike”, IRINnews.org, October 23, 2002, [cited November 16, 2002]; available from [http://www.irinnews.org/report.asp?ReportID=30563&SelectRegion=East\\_Africa&SelectCountry=KENYA](http://www.irinnews.org/report.asp?ReportID=30563&SelectRegion=East_Africa&SelectCountry=KENYA). In 1997, the Government increased teachers’ salaries by 200 percent, however, after the first phase of salary awards it asserted that it did not have the funds to complete the rest of the awards. 240,000 teachers were threatening to strike over this issue. See Integrated Regional Information Network, *Kenya: Focus on Challenges in the Education Sector*.

<sup>1970</sup> Child labor was defined as work undertaken by children 5 to 17 which hampers school attendance, is exploitative, and is hazardous or inappropriate for children. This definition includes the worst forms of child labor. See Central Bureau of Statistics- Ministry of Finance and Planning, *The 1998/99 Child Labor Report*, 33.

<sup>1971</sup> Of the children surveyed for the SIMPOC survey, 78.7 percent worked as unpaid family workers in family farms or businesses and 18.5 percent worked for pay, and 1.6 percent were running their own businesses. See *Ibid.*, 33 and 36.

<sup>1972</sup> *Ibid.*, 34.

<sup>1973</sup> *Ibid.*, 37.

<sup>1974</sup> Ministry of Education, *Action Program on Child Labor: Capacity Building for the Ministry of Education to Address the Problem of Child Labor Related Drop Out in Primary Schools in Kenya*, final report, ILO-IPEC, Nairobi, 1997, 60-70.

<sup>1975</sup> *Ibid.*, 69.

organized criminal groups.<sup>1976</sup> Cases of forced labor, in which children are loaned out to creditors to pay off family debt, have also been documented, primarily in rural areas.<sup>1977</sup>

Education is compulsory for eight years, from the ages of 6 to 14.<sup>1978</sup> In 1998, the gross primary enrollment rate was 92.1 percent.<sup>1979</sup> Attendance rates are not available for Kenya. While enrollment rates indicate a level of commitment to education, they do not always reflect children's participation in school.<sup>1980</sup> Of students enrolled in primary school in 1991, 47.2 percent completed the eighth grade in 1998. Of children who completed primary school, 44 percent transitioned to secondary school.<sup>1981</sup> Progress is being made in improving school completion rates for girls; however, there is still a gender bias in access to education.<sup>1982</sup>

## Child Labor Laws and Enforcement

The Children's Act of 2001 prohibits all forms of child labor that would prevent children under 16 from going to school or that is exploitative and hazardous. The Children's Act also prohibits child sexual exploitation.<sup>1983</sup> The Constitution prohibits slavery, servitude and forced labor.<sup>1984</sup> The enforcement of child labor regulations involves multiple government agencies and institutions. At the ministerial level, the Ministry of Labor and Human Resource Development enforces child labor legislation.<sup>1985</sup> The Department of Children's Services (Office of the Vice President and the

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<sup>1976</sup> Ibid., 70.

<sup>1977</sup> U.S. Department of State, *Country Reports- 2001: Kenya*, 382-85, Section 6d.

<sup>1978</sup> UNESCO, *Kenya-Education System: Structure of Education System: 2000-2001*, [online] [cited August 18, 2002]; available from [www.unesco.org/iau/cd-data/ke.rtf](http://www.unesco.org/iau/cd-data/ke.rtf).

<sup>1979</sup> World Bank, *World Development Indicators 2002* [CD-ROM], Washington D.C., 2002.

<sup>1980</sup> For a more detailed discussion on the relationship between education statistics and work, see the preface to this report.

<sup>1981</sup> Kenya CRC Coalition, *Supplementary Report: Kenya*, 5-6.

<sup>1982</sup> Ibid., 5.

<sup>1983</sup> Integrated Regional Information Network, "Kenya: Focus on New Legislation and Hopes for Child Welfare", [online], March 1, 2002, [cited August 13, 2002]; available from [http://www.irinnews.org/report.asp?ReportID=23483&SelectRegion=East\\_Africa&SelectCountry=KENYA](http://www.irinnews.org/report.asp?ReportID=23483&SelectRegion=East_Africa&SelectCountry=KENYA). See also Judy Thongri, *The Children's Act Becomes Operational with Effect from March 1st, 2002*, news release, Federation of Women Lawyers-Kenya (FIDA Kenya), Nairobi, 2002, [cited August 13, 2002]; available from <http://www.fidakenya.org/Articles/ChildrensAct.asp>. According to the coalition of Kenyan NGOs that are involved in implementing the CRC, the enforcement of 63 pieces of existing legislation concerning child related issues needs to be reconciled to the Children's Act. See Kenya CRC Coalition, *Supplementary Report: Kenya*, 9. The Community Service Order (CSO) is one of the many existing laws that contradicts the Children's Act, because it allows children to be sentenced to community service work as a form of juvenile conviction. There is currently a move to draft new guidelines for the implementers of the CSO. Africa News Service, *Kenya: Children's Act Obstacle to CSO, Says Magistrate*, [globalmarch.org](http://www.globalmarch.org), [online] April 22, 2002 [cited August 29, 2002]; available from [www.globalmarch.org/clns/daily-news/april-2002/april-22-2002.htm](http://www.globalmarch.org/clns/daily-news/april-2002/april-22-2002.htm).

<sup>1984</sup> *Constitution of Kenya, Revised Edition 1998*, Article 73 [cited September 9, 2002]; available from <http://kenya.rcbowen.com/constitution/>.

<sup>1985</sup> Central Bureau of Statistics- Ministry of Finance and Planning, *The 1998/99 Child Labor Report*, 7.

Ministry of Home Affairs, Heritage and Sports) is responsible for the administration of all laws regarding children (particularly awareness raising regarding children's rights and the management of rehabilitation institutions). There are more than 80 Directorate of Occupational Health and Safety Services inspectors and 140 Ministry of Labor officers who have been trained in the detection and reporting of child labor.<sup>1986</sup> However, the number of inspectors is reported to be insufficient, and fines are not high enough to effectively deter employers from utilizing children under the minimum age.<sup>1987</sup>

The Government of Kenya ratified ILO Convention 138 on April 9, 1979 and ILO Convention 182 on May 7, 2001.<sup>1988</sup>

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<sup>1986</sup> U.S. Embassy- Nairobi, *unclassified telegram no. 7028*, November 2001.

<sup>1987</sup> *Ibid.*

<sup>1988</sup> ILO, *Ratifications by Country*, in ILOLEX, [database online] [cited August 15, 2002]; available from <http://ilolex.ch:1567/english/newratframeE.htm>.