

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.²³⁷⁵ The government is working with ILO-IPEC and other development partners to build the capacity of the Ministry of Labor and Human Resource Development to enforce child labor inspection, and with the Department of Children's Services in the Ministry of Home Affairs to raise awareness on child labor.²³⁷⁶ In September 2001, the Ministry of Labor and Human Resource Development established a Child Labor Division within the ministry.²³⁷⁷ The Government of Kenya's National Development Plan 2002-2008 recognizes child labor as a problem and calls for an evaluation of the impact of child labor on the individual and the nation, as well as its implications on the quality of the future labor force.²³⁷⁸

By 2003, 73 ILO-IPEC programs on child labor had been launched targeting the agriculture, construction, cross-border trade, domestic service, fishing, hotel and tourism, and quarrying and mining sectors.²³⁷⁹ Kenya is also participating in an ILO-IPEC regional program funded by USDOL to withdraw, rehabilitate, and prevent children from engaging in hazardous work in the commercial agriculture sector in East Africa.²³⁸⁰ The government is taking part in another USDOL ILO-IPEC regional project aimed at building the foundations for eliminating the worst forms of child labor in Anglophone Africa.²³⁸¹ In September 2001, the Government of Kenya and ILO-IPEC released the results of the Child Labor Module of the Integrated Labor Force Survey, which collected national data on the incidence of child labor in Kenya from 1998 to 1999.²³⁸²

The Government of Kenya has also received support from UNICEF to raise the enrollment and primary completion rates for girls, and to help formulate policy on issues affecting children.²³⁸³ 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.²³⁸⁴ In 2002, USAID helped provide scholarships to secondary school girls from poor families, provided internet access to primary and secondary schools, and assisted 22 educational institutions.²³⁸⁵

²³⁷⁵ ILO-IPEC, *Kenya Country Programme 1992-2001: Brief Profile of Activities*, Nairobi, May 2001, 1. See also ILO-IPEC, *All About IPEC: Programme Countries*, [online] [cited June 26, 2003]; available from http://www.ilo.org/public/english/standards/ipecc/about/countries/t_country.htm.

²³⁷⁶ Central Bureau of Statistics- Ministry of Finance and Planning, *The 1998/99 Child Labor Report*, ILO, September 2001, 7-9 [cited August 1, 2003]; available from <http://www.ilo.org/public/english/standards/ipecc/simnoc/kenya/report/ken98.pdf>.

²³⁷⁷ U.S. Department of State, *Country Reports on Human Rights Practices- 2002: Kenya*, Washington, D.C., March 31, 2003, Section 6d; available from <http://www.state.gov/g/drl/rls/hrrpt/2002/18209.htm>. See also U.S. Embassy- Nairobi, *unclassified telegram no. 7028*, November 2001.

²³⁷⁸ ILO-IPEC, *Technical Progress Report: Prevention, withdrawal, and rehabilitation of children engaged in hazardous work in commercial agriculture in Kenya*, Geneva, August 29, 2002, 3.

²³⁷⁹ U.S. Embassy- Nairobi, *unclassified telegram no. 3531*, August 2003.

²³⁸⁰ 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.

²³⁸¹ ILO-IPEC, *Building the Foundations for Eliminating the Worst Forms of Child Labor in Anglophone Africa*, project document, Geneva, September 2002.

²³⁸² Central Bureau of Statistics- Ministry of Finance and Planning, *The 1998/99 Child Labor Report*, ii. This survey was carried out with support from a USDOL funded ILO-IPEC SIMPOC project.

²³⁸³ UNICEF, *UNICEF - At a glance: Kenya - The big picture*, [online] [cited October 19, 2003]; available from <http://www.unicef.org/infobycountry/kenya.html>.

²³⁸⁴ Such children often are at-risk for entering work. See USAID, *USAID Congressional Budget Justification, 2002: Kenya*, [online] May 29, 2002 [cited August 1, 2003]; available from <http://www.usaid.gov/pubs/cbj2002/afr/ke/>.

²³⁸⁵ USAID, *Kenya*, [online] May 29, 2002 [cited August 2, 2003]; available from <http://www.usaid.gov/pubs/cbj2003/afr/ke/>.

In December 2002, the newly elected government promised to eliminate tuition fees for primary education and reform the educational system.²³⁸⁶ In January 2003, the Government of Kenya implemented Universal Free Primary Education.²³⁸⁷ As a result, the number of children in primary school significantly increased in 2003, but not without placing a strain on schools.²³⁸⁸ To aid in the provision of primary education to all children by 2015, the World Bank will provide USD 50 million to this effort.²³⁸⁹ The World Bank has also been supporting an early childhood development project, which has as a part of its objectives to increase enrollment and reduce dropout and repetition rates in lower primary school.²³⁹⁰

Prior to the implementation of Universal Free Primary Education, a “cost sharing” education system in which students paid both tuition and other associated schooling costs, which could total up to 65 percent of the recurrent costs of schools, had been in place in Kenya.²³⁹¹ Increased costs of schooling reduced access to education for many poor children, and led to a steady increase in the number of dropouts in Kenya.²³⁹²

Incidence and Nature of Child Labor

In 1998/99, the Kenyan Central Bureau of Statistics estimated that 17.4 percent of all children ages 5 to 17 years were working in Kenya.²³⁹³ According to the survey, children made up 14.4 percent of the total workforce in Kenya.²³⁹⁴ More children living in rural areas (19.7 percent) worked compared to children living in urban areas (9.0 percent).²³⁹⁵ 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).²³⁹⁶ Children also work in construction, wholesale and retail trade, mining, and manufacturing.²³⁹⁷ Children employed in the hotel industry

²³⁸⁶ U.S. Department of State, *Country Reports- 2002: Kenya*, Section 5. See also ILO-IPEC, *Technical Progress Report: Targeting the worst forms of child labour in commercial agriculture in Kenya, Tanzania, Malawi, Uganda, and Zambia*, Geneva, March 2003, 2.

²³⁸⁷ U.S. Embassy- Nairobi, *unclassified telegram no. 3531*.

²³⁸⁸ According to UNESCO, it is estimated that the number of children in primary school has increased to 7.4 million from 5.9 million in 2002. See UNESCO, *Kenya launches mass literacy*, [online] 2003 [cited August 2, 2003]; available from http://www.unesco.org/education/efa/news_en/28.05.03_kenya.shtml. See also ILO-IPEC, *Technical Progress Report: Targeting the worst forms of child labour in commercial agriculture*, 2.

²³⁸⁹ World Bank, *Free Primary Education Support Project*, [online] August 1, 2003 [cited August 2, 2003]; available from <http://web.worldbank.org/external/projects/main?pagePK=104231&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P082378>. See also U.S. Embassy- Nairobi, *unclassified telegram no. 3531*.

²³⁹⁰ World Bank, *Early Childhood Development Project*, [online] August 1, 2003 [cited August 2, 2003]; available from <http://web.worldbank.org/external/projects/main?pagePK=104231&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P034180>.

²³⁹¹ This cost-sharing system had been in place in Kenya before the implementation of Universal Free Primary Education, except for the first years following independence. U.S. Department of State, *Country Reports- 2002: Kenya*, Section 5. 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.

²³⁹² UN Integrated Regional Information Network (IRIN), *Kenya: Focus on Challenges in the Education Sector*, ReliefWeb and IRINnews.org, [online] July 22, 2002 [cited August 1, 2003]; available from <http://www.reliefweb.int/w/rwb.nsf/6686f45896f15dbc852567ae00530132/c12980402b76b23085256bfe005d27e7?OpenDocument>. See also U.S. Department of State, *Country Reports- 2002: Kenya*, Section 5.

²³⁹³ Child labor was defined as work undertaken by children 5-17 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.

²³⁹⁴ 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.

²³⁹⁵ *Ibid.*, 34.

²³⁹⁶ *Ibid.*, 37.

²³⁹⁷ 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.

are often drawn into commercial sex work.²³⁹⁸ Street children are often engaged in odd jobs in the informal sector, prostitution, or various illegal activities often under the control of organized criminal groups.²³⁹⁹ 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.²⁴⁰⁰ There are reports of internal trafficking of children, for the purpose of commercial sexual exploitation and forced labor. Children are also reportedly trafficked to Uganda for labor purposes.²⁴⁰¹

Education is compulsory for eight years, for children ages 6 to 14.²⁴⁰² In 2000, the gross primary enrollment rate was 94.0 percent, and the net primary enrollment rate was 68.5 percent.²⁴⁰³ In 1998, 71.2 percent of children persisted to grade five.²⁴⁰⁴ 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.²⁴⁰⁵ Progress is being made in improving school completion rates for girls, and the completion rate among girls has been reported higher than boys.²⁴⁰⁶ However, there is still a gender bias in access to education.²⁴⁰⁷ As the government looks to expand primary education, it faces some challenges, including high numbers of overage students, lack of teachers in some areas, learning material shortages, large classroom sizes, lack of classrooms, and inadequate facilities.²⁴⁰⁸ In 2001, 42 percent of teachers were reported as being untrained.²⁴⁰⁹ Furthermore, a teachers' strike from September to October 2002 led to disruptions in the provision of schooling.²⁴¹⁰

²³⁹⁸ Ibid., 69. See also ILO-IPEC, *Fighting Commercial Sexual Exploitation of Children*, Dar es Salaam, April 2002, 3-4.

²³⁹⁹ Ministry of Education, *Action Program on Child Labor*, 69-70.

²⁴⁰⁰ U.S. Department of State, *Country Reports- 2002: Kenya*, Section 6c.

²⁴⁰¹ U.S. Department of State, *Trafficking in Persons Report- 2003: Kenya*, Washington, D.C., June 11, 2003; available from <http://www.state.gov/g/tip/rls/tiprpt/2003/21276.htm>.

²⁴⁰² UNESCO, *Kenya-Education System: Structure of Education System: 2000-2001*, [online] [cited August 1, 2003]; available from www.unesco.org/iau/cd-data/ke.rtf.

²⁴⁰³ World Bank, *World Development Indicators 2003* [CD-ROM], Washington D.C., 2003. See also USAID, *Global Education Database 2003*; available from <http://quesdb.cdie.org/ged/index.html>.

²⁴⁰⁴ World Bank, *World Development Indicators 2003*.

²⁴⁰⁵ Kenya CRC Coalition, *Supplementary Report: Kenya*, 5-6.

²⁴⁰⁶ Ibid., 5.

²⁴⁰⁷ Ibid.

²⁴⁰⁸ UN Integrated Regional Information Networks (IRIN), *Kenya: Feature: The challenge of providing free primary education*, [online] 2003 [cited August 2, 2003]; available from <http://www.irinnews.org/print.asp?ReportID=32164>. See also UNESCO, *Kenya launches mass literacy*.

²⁴⁰⁹ Kenya CRC Coalition, *Supplementary Report: Kenya*, 5.

²⁴¹⁰ UN Integrated Regional Information Network (IRIN), "Kenya: Feature - Compromise Deal Ends Teachers' Strike", IRINnews.org, October 23, 2002, [cited August 1, 2003]; available from http://www.irinnews.org/report.asp?ReportID=30563&SelectRegion=East_Africa&SelectCountry=KENYA. After a teachers' strike in 1997, the government agreed to increase 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, subsequently not providing the agreed to increases to the teachers. A number of negotiations and strikes have taken place since. On May 1, 2003, however, the President ordered a renegotiation and on July 1, the government made the first salary award payment, with the remainder to be paid over the next 6 years. See UN Integrated Regional Information Network (IRIN), *Kenya: Focus on Challenges in the Education Sector*. See also UN Integrated Regional Information Network (IRIN), "Kenya: Education sector in crisis as teachers strike", September 23, 2002; available from http://www.irinnews.org/report.asp?ReportID=30027&SelectRegion=East_Africa&SelectCountry=KENYA. See also U.S. Embassy- Nairobi, electronic communication to USDOL official, February 17, 2004.

Child Labor Laws and Enforcement

The Children's Act of 2001 prohibits all forms of child labor that would prevent children under the age of 16 from going to school or that is exploitative and hazardous.²⁴¹¹ The Children's Act also prohibits child sexual exploitation.²⁴¹² The Constitution prohibits slavery, servitude, and forced labor.²⁴¹³ 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.²⁴¹⁴ The Department of Children's Services (Office of the Vice President and the Ministry of Home Affairs) is responsible for the administration of all laws regarding children, particularly awareness raising regarding children's rights and the management of rehabilitation institutions.²⁴¹⁵ There are more than 80 Directorate of Occupational Health and Safety Services inspectors and 140 Ministry of Labor officers who have been trained to detect and report child labor.²⁴¹⁶ 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.²⁴¹⁷ There are no laws in Kenya prohibiting trafficking.²⁴¹⁸

The Government of Kenya ratified ILO Convention 138 on April 9, 1979 and ILO Convention 182 on May 7, 2001.²⁴¹⁹

²⁴¹¹ U.S. Embassy- Nairobi, *unclassified telegram no. 3531*.

²⁴¹² UN Integrated Regional Information Network (IRIN), "Kenya: Focus on New Legislation and Hopes for Child Welfare", [online], March 1, 2002, [cited August 1, 2003]; available from http://www.irinnews.org/report.asp?ReportID=23483&SelectRegion=East_Africa&SelectCountry=KENYA. 0

²⁴¹³ *Constitution of Kenya, Revised Edition 1998*, Article 73 [cited August 1, 2003]; available from <http://kenya.rcbowen.com/constitution/>.

²⁴¹⁴ Central Bureau of Statistics- Ministry of Finance and Planning, *The 1998/99 Child Labor Report*, 7.

²⁴¹⁵ *Ibid.*

²⁴¹⁶ U.S. Embassy- Nairobi, *unclassified telegram no. 7028*.

²⁴¹⁷ *Ibid.*

²⁴¹⁸ U.S. Department of State, *Country Reports- 2002: Kenya*, section 6f.

²⁴¹⁹ ILO, *Ratifications by Country*, in ILOLEX, [database online] [cited June 19, 2003]; available from <http://www.ilo.org/ilolex/english/newratframeE.htm>.