

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

The Government of Malawi is an associated country of ILO-IPEC.²⁶⁹⁹ The Ministry of Labor and Vocational Training (MOLVT) established and chairs a National Steering Committee on Child Labor.²⁷⁰⁰ The Committee has developed an action plan against child labor²⁷⁰¹ and has selected officers to coordinate activities to eliminate child labor.²⁷⁰² The government recently established an ombudsman who handles children issues among other social concerns.²⁷⁰³ The government has also launched campaigns against local customs such as initiation rights for girls and early marriage in an attempt to reduce the risk of girls becoming victims of child trafficking.²⁷⁰⁴ A Child Rights Unit was established in 1999 in the Human Rights Commission to protect children from abuse, violence, and exploitation.²⁷⁰⁵

The Ministry of Gender, Youth, and Community Services (MGYCS) has collaborated with stakeholders to form the National Task Force on Children and Violence, which deals with child labor as well as other threats to children's health and well being.²⁷⁰⁶ Street children receive assistance through the Department of Social Welfare with support from the MGYCS.²⁷⁰⁷

The government is also participating in an ILO-IPEC regional program funded by USDOL to withdraw and rehabilitate children engaged in hazardous work in the commercial agriculture sector in East Africa.²⁷⁰⁸ In April 2001, the MOLVT conducted a USDOL-funded national household survey on child labor with assistance from

²⁶⁹⁹ ILO-IPEC, *All About IPEC: Programme Countries*, [online database] [cited August 22, 2003]; available from http://www.ilo.org/public/english/standards/ipe/about/countries/t_country.htm.

²⁷⁰⁰ The Labor Commissioner chairs the committee. Membership includes government, donors, workers, employers, representatives and civil society organizations. See ILO-IPEC, *Malawi Child Labor Baseline Survey Report*, February 12, 2003, 49.

²⁷⁰¹ Approximately USD 900,000 will be provided by UNICEF and the Norwegian Agency for International Development to fund the plan. See Suzgo Khunga, "Minister Bemoans the Increase in Child Labour", *allAfrica.com*, [previously online], March 25, 2002; available from <http://allafrica.com/stories/printable/200204020420.html> [hard copy on file]. UNICEF Malawi is providing technical and project management assistance. The government and civil society organizations are responsible for implementing the plan. See ILO-IPEC, *Baseline Survey Report*, 50.

²⁷⁰² Officer activities include sensitizing labor inspectors, employers and workers organizations on child labor issues, training labor inspectors to prosecute child labor cases, reviewing legislation, and developing a code of conduct for child labor employment. See ILO-IPEC, *Baseline Survey Report*, 50.

²⁷⁰³ U.S. Department of State, *Trafficking In Persons Report- 2003: Malawi*, U.S. Department of State, Washington, D.C., June 11, 2003; available from <http://www.state.gov/g/tip/rls/tiprpt/2003/21276.htm>.

²⁷⁰⁴ *Ibid.*

²⁷⁰⁵ The Right Honorable Justine C. Malewezi, Vice President of the Republic of Malawi, Statement at the UN Special Session on Children, May 8, 2002, Para 11; available from <http://www.un.org/ga/children/malawiE.htm>. The Child Rights Unit has taken over much of the responsibility for coordinating children's policy from the Children's Affairs Division in the Ministry of Gender, Youth and Community Services (MGYCS). The MGYCS continues to formulate policy on childcare and protection but relies on the Child Rights Unit and other partners to carry out policy. See UN Committee on the Rights of the Child, *Summary of the record of the 765th meeting: Malawi*, CRC/C/SR.765, prepared by The Republic of Malawi, pursuant to Article 44 of the Convention on the Rights of the Child, January 31, 2002, Paras 20, and 54; available from <http://www.unhchr.ch/TBS/doc.nsf/e121f32fbc58faafc1256a2a0027ba24/1e631bcfbb5f333ec1256b5a005a5c68?OpenDocument>.

²⁷⁰⁶ In 2000, the Task Force worked with Save the Children to produce a situation analysis study on child abuse in Malawi. See ILO-IPEC, *Regional Programme on Prevention, Withdrawal and Rehabilitation of Children engaged in Hazardous Work in Commercial Agriculture in Kenya, Tanzania, Uganda, Zambia and Malawi*, technical progress report, RAF/00/P51/USA, Geneva, March 30, 2002, 18. See also ILO-IPEC, *Baseline Survey Report*, 50.

²⁷⁰⁷ The Republic of Malawi, *National Report on The Follow-Up to The World Summit For Children*, UNICEF, 2002, Point 57; available from http://www.unicef.org/specialsession/how_country/edr_malawi_en.PDF.

²⁷⁰⁸ ILO-IPEC, *Regional Programme on Prevention, Withdrawal and Rehabilitation of Children engaged in Hazardous Work in Commercial Agriculture*, technical progress report, March 2002, 18.

ILO-IPEC's SIMPOC project.²⁷⁰⁹ In addition, the government has partnered with other organizations to promote efforts to eliminate child labor, including the Tobacco Association of Malawi,²⁷¹⁰ the Tobacco Exporters Children Service (since renamed Together Ensuring Children's Security,²⁷¹¹ UNICEF, the Norwegian Agency for International Development, the African Regional Labor Administration²⁷¹² and international and national unions.²⁷¹³

In 1994, Malawi's new democratically elected government introduced a policy of Free Primary Education.²⁷¹⁴ Since that time, Malawi has increased enrollment, raised education spending, launched several teacher training programs, reformed primary curriculums, built new schools, and invested in efforts to enroll and retain girls at all education levels.²⁷¹⁵ The government developed an Education Policy and Investment Framework in 1995, outlining education policy over a ten-year period in an attempt to accommodate free primary education and other reforms.²⁷¹⁶ In addition to subsidies from the government, educational institutions in Malawi receive assistance from religious organizations, local authorities, community associations,²⁷¹⁷ international NGOs, international

²⁷⁰⁹ Two specialized studies on street children and child prostitutes have also been initiated. See ILO-IPEC, *Statistical Programme for Advocacy on the Elimination of Child Labour and the Protection of Working Children in Malawi (Child Labour Survey)*, technical progress report, MLW/01/P50/USA, Geneva, September 12, 2003, 2.

²⁷¹⁰ The Tobacco Association of Malawi initiated a child labor task force to raise awareness and formulate strategies to eliminate the problem of child labor. The task force is made up of representatives from government, business, international organizations, and labor, and was formed in November 2000. See U.S. Embassy- Lilongwe, *unclassified telegram no. 390*, February 2001. See also ILO-IPEC, *Baseline Survey Report*, 53. Their efforts have resulted in the Association for the Elimination of Child Labor. See ECLT Foundation, *A Unique Alliance to Address the Challenge of Child Labour in Tobacco Growing Launched in Geneva, Switzerland*, [online] 2002 [cited June 20, 2003]; available from http://www.eclt.org/filestore/Pressrelease_Uk.pdf.

²⁷¹¹ Together Ensuring Children's Security was formed in July 2002 by four tobacco-exporting companies and is raising funds to implement projects to eliminate child labor in the tobacco industry in 60 villages in two target districts for four years. See ECLT Foundation, *ECLT Foundation Program in Malawi with "Together Ensuring Children's Security" (TECS), 2002-2006*, [online] 2003 [cited June 20, 2003]; available from <http://www.eclt.org/filestore/TECSProgramme.pdf>. The program is also working with the Malawi Bureau of Standards to develop a product-labeling program certifying child labor free products. See ILO-IPEC, *Baseline Survey Report*, 54.

²⁷¹² These organizations have helped to train over one hundred labor officers in child labor inspection and child labor issues. ILO-IPEC trained 33 officers to prosecute child labor and held a sensitization workshop for 12 members of parliament. See U.S. Embassy- Lilongwe, *unclassified telegram no. 909*, August 2003.

²⁷¹³ The International Confederation of Free Trade Unions (ICFTU) and the International Union of Foodworkers signed an agreement with the International Association of Tobacco Producers to eradicate child labor on plantations. The Malawi Congress of Trade Unions (affiliated with the ICFTU) and the Tobacco Tenants and Allied Workers Union signed a similar agreement with the Tobacco Association of Malawi at a national level. See International Confederation of Free Trade Unions, *Report for the WTO General Council Review of Trade Policies of Malawi*, online, Geneva, February 6-8, 2002; available from <http://www.icftu.org/displaydocument.asp?Index=991214742&Language=EN&Printout=Yes>.

²⁷¹⁴ The Policy and Investment Framework has been updated several times since 1995. Although the needs of girls have been featured in revisions, children with special needs such as street children out of school youth, orphans, and poor children continue to be neglected. See Esme Kadzamira and Pauline Rose, *Educational Policy Choice and Policy Practice in Malawi: Dilemmas and Disjunctures*, IDS Working Paper 124, Institute of Development Studies, 2001, 8-9; available from <http://www.ids.ac.uk/ids/bookshop/wp/wp124.pdf>.

²⁷¹⁵ UNESCO, *The Education for All (EFA) 2000 Assessment: Country Reports - Malawi*, prepared by Ministry of Education, Sports, and Culture, pursuant to UN General Assembly Resolution 53/84; available from <http://www2.unesco.org/wef/countryreports/malawi/contents.html>. See also Kadzamira and Rose, *Educational Policy Choice and Policy Practice in Malawi*. The Malawi Integrated In-service Teacher Training Education Programme and the Malawi School Support Systems Programme are intended to increase the quality of education and decrease the student to teacher ratio. See The Republic of Malawi, *National Report on the Follow-Up*, para. 54.

²⁷¹⁶ Kadzamira and Rose, *Educational Policy Choice and Policy Practice in Malawi*, 8.

²⁷¹⁷ UNESCO, *EFA 2000 Report: Malawi*, 10.

organizations, and foreign donors such as UNICEF,²⁷¹⁸ Save the Children-US,²⁷¹⁹ USAID,²⁷²⁰ PLAN Malawi²⁷²¹ and the World Bank.²⁷²²

Incidence and Nature of Child Labor

A 2000 Malawi Demographic and Health Study (DHS) found that 27 percent of children ages 5 to 14 were working.²⁷²³ Children work mainly in farming, domestic service, and, to a lesser extent, in informal sector jobs such as street-side welding, bicycle repair, furniture making,²⁷²⁴ and work in brick kilns.²⁷²⁵ Children in the agricultural sector work alongside their parents in fields.²⁷²⁶ Children are used in crop production on tea estates²⁷²⁷ and on commercial tobacco farms, where the incidence of working children has been particularly high.²⁷²⁸ Bonded labor has been common among tobacco tenants and their families, including children.²⁷²⁹ A 1999 study estimated the number of children on the streets of three major cities to be roughly 2,000.²⁷³⁰ An

²⁷¹⁸ UNICEF and the Government of Malawi announced in July 2002 a four-year plan to provide full and equal access to basic education through community schools. See Integrated Regional Information Networks, "Malawi: UNICEF, Government Say Girls Face Education Obstacles", [online], July 9, 2002; available from http://www.irinnews.org/report.asp?ReportID=28723&SelectRegion=Southern_Africa&SelectCountry=MALAWI.

²⁷¹⁹ Save the Children-US has helped the Government of Malawi to expand rural education and train teachers through a village-based schools program aimed to increase girls' attendance. See Save the Children - USA, *Village-Based Schools Improve Girls' Enrollment in Malawi*, in Success Stories: Education, [online database] 2002 [cited November 15, 2002]; available from <http://www.savethechildren.org/mothers/programs/education.htm>. Save the Children-US also assists victims of child abuse through the Community Options for the Protection and Empowerment (COPE) program in coordination with existing government structures and local NGOs. See National Commission for UNESCO Malawi, *Community-Oriented Primary Education (COPE)*, Lilongwe, 2003; available from <http://www.ibe.unesco.org/International/Databanks/Dossiers/imalawi.htm>. See ILO-IPEC, *Baseline Survey Report*, 52.

²⁷²⁰ USAID also supports government efforts to increase access, and improve the quality and efficiency of Basic Education, giving special emphasis to girls' education. See USAID/MALAWI, *Annual Report FY 2002*, USAID, March 2002; available from http://www.dec.org/pdf_docs/PDABW145.pdf.

²⁷²¹ PLAN Malawi, an NGO and subsidiary of PLAN International, has established a "Schools Improvement Project" to improve school buildings, buy school supplies and provide teacher training in ten pilot schools. See ILO-IPEC, *Baseline Survey Report*, 53.

²⁷²² The World Bank's Second Social Action Fund Project supports socio economic infrastructure, development initiatives for the most vulnerable groups, and increases capacity. See World Bank, *Social Action Fund Project*, in World Bank Project Data., [online] May 15, 2003 [cited June 20, 2003]; available from <http://www4.worldbank.org/projects/Project.asp?pid=P049599>.

²⁷²³ Fourteen percent of children 5 to 9 and 42 percent of children 10 to 14 were working. The survey was conducted with assistance from USAID, DFID, UNICEF Malawi, and ORC Macro (DHS). See The Republic of Malawi, *Malawi Demographic and Health Survey 2000*, National Statistical Office, Zomba, Malawi, August 2001, 17; available from http://www.nso.malawi.net/data_on_line/demography/dhs/main_report/main_report.html.

²⁷²⁴ U.S. Department of State, *Country Human Rights Practices- 2002: Malawi*, Washington, D.C., March 4, 2003, Section 6d; available from <http://www.state.gov/g/drl/rls/hrrpt/2002/18213.htm>. See also U.S. Embassy- Lilongwe, *unclassified telegram no. 390*. See also The Republic of Malawi, *National Report on the Follow-Up*, 3.

²⁷²⁵ ILO/IFBWW, *Change in Malawi: Children Working in the Brick Kilns*, Geneva, March 2001.

²⁷²⁶ U.S. Embassy- Lilongwe, *unclassified telegram no. 1873*, November 2001. See also Line Eldering, Sabata Nakanyane, and Malehoko Tshoedi, "Child Labor in the Tobacco Growing Sector in Africa" (paper presented at the IUF/ITGA/BAT Conference on the Elimination of Child Labor, Nairobi, October 8-9, 2000), 38-39. Ninety-four percent of children working in agriculture who were interviewed were under 14 years old, 87 percent missed school as a result of work, 51 percent were injured, and, on average, their workday lasted up to 11 hours. See ILO-IPEC, *Baseline Survey Report*, 25, 26, 30.

²⁷²⁷ ILO-IPEC, *Child Labor in Commercial Agriculture in Africa*, Technical Workshop on Child Labour in Commercial Agriculture in Africa; Dar es Salaam, United Republic of Tanzania, August 27-30, 1996, Geneva, 35; available from <http://www.ilo.org/public/english/standards/ipcc/publ/policy/papers/africa/index.htm>.

²⁷²⁸ Children also frequently perform domestic work to allow adults to work longer hours in the fields. See Eldering, Nakanyane, and Tshoedi, "Child Labor in the Tobacco Growing Sector in Africa", 39-40.

²⁷²⁹ Liv Tørrer, *The Smoking Business: Tobacco Tenants in Malawi*, Fafo Institute for Applied Social Sciences, 2000. See also International Confederation of Free Trade Unions, *Report for the WTO General Council Review of Trade Policies*.

²⁷³⁰ The Republic of Malawi, *National Report on the Follow-Up*, Point 57: 16.

estimated 470,000 children in Malawi have been orphaned by the HIV/AIDS pandemic and may have no choice other than to seek work.²⁷³¹

According a recent IOM report, Malawi is believed to be a country of origin for children trafficked regionally and internationally for purposes of forced labor and commercial sexual exploitation. Children are recruited in Malawi by businesswomen and by Nigerian traffickers, by long distance truckers along major transportation routes, and by tourists at holiday resorts along Lake Malawi. They are lured by promises of jobs, marriage, and educational opportunities and then trafficked to Europe and other cities in Southern Africa.²⁷³²

Primary education is free under the Constitution.²⁷³³ Although the Minister of Education issued a statement saying that primary education is compulsory, Parliament has not endorsed this policy.²⁷³⁴ In 2000, the gross primary enrollment rate was 136.9 percent and the net primary enrollment rate was 100.6 percent.²⁷³⁵ In the same year, the gross primary attendance rate was 106.8 percent, and the net primary attendance rate was 78.2 percent.²⁷³⁶ In 1999, 62.8 percent of children enrolled in primary school reached grade 5.²⁷³⁷ Indirect costs of education, family illnesses and lack of interest in education are decreasing the demand for school. Insufficient numbers of teachers and teaching materials, poor sanitation, poor teaching methods, and inadequate classrooms have also contributed to the government's inability to provide quality education.²⁷³⁸

Child Labor Laws and Enforcement

The Employment Act of 2000 sets the minimum age for employment at 14 years, but makes exceptions for work done in vocational technical schools, other training institutions or unpaid work in homes.²⁷³⁹ The Act also allows children between the ages of 14 and 18 to engage in non-hazardous work that is not prejudicial to their attendance at school or any other vocational or training program.²⁷⁴⁰ The Constitution of Malawi protects children against economic exploitation as well as treatment, work or punishment that is hazardous, interferes with

²⁷³¹ UNAIDS/WHO, *Epidemiological Fact Sheet on HIV/AIDS and sexually transmitted infections: 2002 Update*, [online database] 2002 [cited February 27, 2004]; available from http://www.who.int/emc-hiv/fact_sheets/pdfs/Malawi_EN.pdf.

²⁷³² IOM, *The Trafficking of Women and Children in the Southern Africa Region*, Pretoria, March 24, 2003; available from <http://www.iom.int/documents/publication/en/southernafrika%5Ftrafficking.pdf>. There have also been reports of internal trafficking. See U.S. Department of State, *Trafficking In Persons Report- 2003: Malawi*.

²⁷³³ *Constitution of the Republic of Malawi*, Chapter IV, Human Rights, 25. -1., 2.; available from <http://www.sdn.org.mw/constitut/chapter4.html#15>.

²⁷³⁴ ILO-IPEC, *Targeting the worst forms of child labour in commercial agriculture Kenya, Tanzania, Malawi, Uganda, Zambia*, technical progress report,, RAF/00/P51/USA, Geneva, March 31, 2003, 3.

²⁷³⁵ World Bank, *World Development Indicators 2003* [CD-ROM], Washington, D.C., 2003. For an explanation of gross primary enrollment and/or attendance rates that are greater than 100 percent, please see the definitions of gross primary enrollment rate and gross primary attendance rate in the glossary of this report.

²⁷³⁶ The Republic of Malawi, *Malawi Demographic and Health Survey 2000*, 14.

²⁷³⁷ World Bank, *World Development Indicators 2003*. Research recently published by the World Bank has shown that despite increases in enrollment, the drop out rate has continued to average around 50 percent throughout the 1990s. See Samer Al-Samarrai and Hassan Zaman, *The Changing Distribution of Public Education Expenditure in Malawi, Africa Region Working Paper Series No. 29*, World Bank, Washington D.C., August 29, 2002, 4-5; available from <http://www.worldbank.org/afr/wps/wp29.htm>.

²⁷³⁸ Al-Samarrai and Zaman, *The Changing Distribution of Public Education Expenditure in Malawi*, 4. See also Kadzamura and Rose, *Educational Policy Choice and Policy Practice in Malawi*, 8, 10, 16.

²⁷³⁹ *Employment Act of 2000*, (2000), Part IV-Employment of Young Persons, 23-24; available from <http://www.sdn.org.mw/~esaias/ettah/employment-act/>.

²⁷⁴⁰ *Ibid.*

their education or is harmful to their health or physical, mental or spiritual and social development.²⁷⁴¹ There is no legal restriction on the number of hours children may work.²⁷⁴² In 2003, a commission was established to review laws pertaining to children.²⁷⁴³ Employers are required to keep a register of all employees under the age of 18, and violation of the law can result in a fine of Malawi Kwacha (MK) 20,000 (USD 223) and 5 years of imprisonment.²⁷⁴⁴ Both the Constitution and the Employment Act prohibit forced and compulsory labor. Violators are liable for penalties of MK 10,000 (USD 112) and 2 years imprisonment under the Employment Act.²⁷⁴⁵

The trafficking of persons is not specifically prohibited by law.²⁷⁴⁶ However, the Penal Code does prohibit the procurement of any girl under the age of 21 to have unlawful sexual relations, either in Malawi or elsewhere.²⁷⁴⁷ The promotion, management and transporting of a woman or girl with the intention of making her a prostitute carries a 14-year sentence.²⁷⁴⁸ The age of consent is 14 years,²⁷⁴⁹ and marriage of children under 15 is discouraged.²⁷⁵⁰ There is no government funding for NGO services to victims of trafficking or training for government officials to combat trafficking.²⁷⁵¹

The MOLVT and the police are charged with enforcing child labor laws, but enforcement is minimal.²⁷⁵² Fifty-five labor inspectors investigate child labor cases. Although complaints concerning child labor are regularly recorded, only one-third are investigated due to lack of funding.²⁷⁵³

The Government of Malawi ratified ILO Convention 138 and ILO Convention 182 on November 19, 1999.²⁷⁵⁴

²⁷⁴¹ *Constitution of the Republic of Malawi*, Chapter IV, Human Rights, 23-24 a, b, c. However, the Constitution defines children as under 16 years old. See *Constitution of the Republic of Malawi*, Chapter IV, Human Rights, 23. -5.

²⁷⁴² U.S. Department of State, *Country Reports- 2002: Malawi*, Section 6d.

²⁷⁴³ ILO-IPEC, *Targeting the worst forms of child labour in commercial agriculture, technical progress report, March 2003*. See also Statement at the UN Special Session on Children, 11.

²⁷⁴⁴ *Employment Act*, Part IV-Employment of Young Persons, 21-24. For currency conversion see Expedia, *Currency Converter*, [online] 2003 [cited August 12, 2003]; available from <http://www.expedia.com/pub/agent.dll>.

²⁷⁴⁵ *Constitution of the Republic of Malawi*, Chapter IV, Human Rights, 27. -1.,2.,3.,4. See also *Employment Act*, Part II-Fundamental Principles, 4. (1)-(2). For currency conversion see Expedia, *Currency Converter*.

²⁷⁴⁶ U.S. Department of State, *Country Reports- 2002: Malawi*, Section 6f.

²⁷⁴⁷ Government of Malawi, *The Penal Code*, as cited in The Protection Project Legal Library, 140; available from <http://209.190.246.239/protectionproject/statutesPDF/UgandaEpdf>. In 2000, the MGYCS announced plans to patrol pubs, drinking places and other entertainment areas in search of underage female barmaids working as prostitutes. See Raphael Tenthani, "Malawi to Crack Down On Teenage Barmaids", allAfrica.com, [previously online], December 14, 2000; available from <http://allafrica.com/stories/printable/200012140082.html> [hard copy on file].

²⁷⁴⁸ The Protection Project, "Malawi," in *Human Rights Report on Trafficking in Persons, Especially Women and Children: A Country-by-Country Report on a Contemporary Form of Slavery* Washington, D.C., 2002; available from <http://209.190.246.239/ver2/cr/Malawi.pdf>. See also U.S. Department of State, *Trafficking In Persons Report- 2003: Malawi*.

²⁷⁴⁹ U.S. Department of State, *Country Reports- 2002: Malawi*, Section 6f. See also Government of Malawi, *The Penal Code*, 138.

²⁷⁵⁰ *Constitution of the Republic of Malawi*, Chapter IV, Human Rights, 22-28.

²⁷⁵¹ U.S. Department of State, *Country Reports- 2002: Malawi*, Section 6f.

²⁷⁵² *Ibid.*, Section 6d.

²⁷⁵³ The MOLVT's budget equals less than one third of 1 percent of Malawi's 2002-2003 national budget. See U.S. Embassy- Lilongwe, *unclassified telegram no. 909*.

²⁷⁵⁴ ILO, *Ratifications by Country*, in ILOLEX, [database online] [cited August 26, 2003]; available from <http://www.ilo.org/ilolex/english/newratframeE.htm>.