

Kenya

Incidence and Nature of Child Labor

The Kenyan Central Bureau of Statistics estimated that 15.2 percent of all children ages 5 to 14 years were working in Kenya in 1998-99.²²⁵⁷ Children living in rural areas were more likely to work than children living in urban areas.²²⁵⁸ The commercial and subsistence agriculture and fishing sectors employ the largest number of working children, followed by the domestic service sector.²²⁵⁹ Children work in the informal sector, predominantly in family businesses, and are found on tea, coffee, sugar, and rice plantations, in restaurants and shops, and in the coastal salt harvesting industry.²²⁶⁰ There are large numbers of street children in Kenya's urban centers, many of whom are involved in illegal activities such as theft and drug trafficking.²²⁶¹

There is a high incidence of child prostitution in Kenya, particularly in Nairobi and Mombasa.²²⁶² There are also reports of widespread prostitution among girls who hawk or beg by day, and work as prostitutes by night.²²⁶³ Girls working in the agricultural sector are reportedly sometimes forced to provide sexual services in order to obtain plantation work. Sudanese and Somali refugee children are alleged to be involved in prostitution in Kenya.²²⁶⁴

²²⁵⁷ Another 26.5 percent of children 15 to 17 years were also found working. Child labor was defined as work which hampers school attendance, is exploitive, 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*, September 2001, 33; available from <http://www.ilo.org/public/english/standards/ipecc/simpoc/kenya/report/ken98.pdf>. For more information on the definition of working children, please see the section in the front of the report entitled Statistical Definitions of Working Children.

²²⁵⁸ *Ibid.*, 34.

²²⁵⁹ *Ibid.*, 37.

²²⁶⁰ U.S. Department of State, *Country Reports on Human Rights Practices- 2003: Kenya*, Washington, D.C., February 25, 2004, Section 6d; available from <http://www.state.gov/g/drl/rls/hrrpt/2003/27733.htm>. See also Central Bureau of Statistics--Ministry of Finance and Planning, *The 1998/99 Child Labor Report*, 38.

²²⁶¹ U.S. Department of State, *Country Reports- 2003: Kenya*, Section 5. HIV/AIDS and poverty are thought to have contributed to a rise in the number of orphans and street children. See Commonwealth News and Information Service, "Better Care Needed for Children Orphaned by HIV/Aids in Kenya", *allAfrica.com*, [online], April 21, 2004 [cited May 13, 2004]; available from <http://allafrica.com/stories/printable/200404210895.html>.

²²⁶² Economic contraction as well as an increase in the number of HIV/AIDS orphans have contributed to a rise in the number of child prostitutes. See U.S. Department of State, *Country Reports- 2003: Kenya*, Section 5. Child prostitution is reported to occur in brothels, massage parlors, streets, bars, and discotheques. The majority of the children are between 13 and 17 years old. See ECPAT International, *Kenya*, in ECPAT International, [database online] n.d. [cited May 13, 2004]; available from http://www.ecpat.net/eng/Ecpat_inter/projects/monitoring/online_database/countries.asp?arrCountryID=88&CountryProfile=facts,affiliation,humanrights&CSEC=Overview,Prostitution,Pronography,trafficking&Implement=Coordination_cooperation,Prevention,Protection,Recovery,ChildParticipation&Nationalplans=National_plans_of_action&orgWorkCSEC=orgWorkCSEC&DisplayBy=optDisplayCountry.

²²⁶³ ECPAT International, *Kenya*.

²²⁶⁴ *Ibid.*

Kenya is a source, transit and destination country for trafficked children.²²⁶⁵ Kenyan children are reportedly trafficked to South Africa,²²⁶⁶ and there are reports of internal trafficking of children into involuntary servitude, including for work as street vendors, day laborers, and as prostitutes.²²⁶⁷ Children are also trafficked from Burundi and Rwanda to coastal areas of Kenya for purposes of sexual exploitation.²²⁶⁸

The government has provided tuition-free primary education since 2003.²²⁶⁹ In 2001, the gross primary enrollment rate was 96.0 percent (96.8 percent for boys and 95.1 percent for girls), and the net primary enrollment rate was 69.9 percent (69.4 percent for boys and 70.5 percent for girls).²²⁷⁰ Gross and net enrollment ratios are based on the number of students formally registered in primary school and therefore do not necessarily reflect actual school attendance. Recent primary school attendance statistics are not available for Kenya. School completion rates for girls have increased, and the completion rate among girls has been reported to be higher than that for boys.²²⁷¹ However, there remains a gender bias in access to education.²²⁷² As the government expands primary education, it faces the challenges of high numbers of overage students, lack of teachers in some areas, learning material shortages, large class sizes, lack of classrooms, and inadequate facilities.²²⁷³ In 2001, 42 percent of teachers were untrained.²²⁷⁴ To enhance access to free primary education, the government supports non-formal education schools, especially those for children in urban slums.²²⁷⁵

²²⁶⁵ U.S. Department of State, *Trafficking in Persons Report- 2004: Kenya*, Washington, D.C., June 14, 2004; available from <http://www.state.gov/g/tip/rls/tiprpt/2004/33189.htm>.

²²⁶⁶ Jonathan Fowler, "UNICEF: War Fuels Africa Human Trafficking," *The Washington Post* (Washington, D.C.), April 23, 2004; available from <http://www.washingtonpost.com/ac2/wp-dyn/A35710-2004Apr23?language=printer>.

²²⁶⁷ U.S. Department of State, *Trafficking in Persons Report- 2004: Kenya*.

²²⁶⁸ *Ibid.*

²²⁶⁹ Unintended results of the policy include overcrowded classrooms due to increased enrollment, insufficient numbers of teachers, and inadequate financial resources. See U.S. Department of State, *Country Reports- 2003: Kenya*, Section 5. Also as a result of this policy, more than 1.3 million children are reported to have enrolled in school for the first time. See UNICEF, *Harry Belafonte urges all countries to end school fees*, press release, Nairobi, February 18, 2004; available from http://www.unicef.org/media/media_19262.html. A new draft constitution, while not yet ratified, contains detailed provisions on children's rights to education. See UN Commission on Human Rights, Kenya's Statement at the 61st Session on the Commission on Human Rights, Agenda Item 13: Rights of the Child, 61st, April 7, 2005; available from <http://www.unhcr.info/61st/docs/0408-Item13-Kenya.pdf>. See also *The Draft Constitution of Kenya 2004*, (March 15, 2004); available from <http://www.kenyaconstitution.org/html/draftconstitution.htm>.

²²⁷⁰ World Bank, *World Development Indicators 2004* [CD-ROM], Washington D.C., 2004.

²²⁷¹ 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.

²²⁷² *Ibid.*

²²⁷³ Integrated Regional Information Networks (IRIN), "Kenya: Feature: The challenge of providing free primary education", IRINnews.org, [online], February 7, 2003 [cited May 17, 2004]; available from <http://www.irinnews.org/print.asp?ReportID=32164>. See also UNESCO, *Kenya launches mass literacy*, in UNESCO, [online] n.d. [cited May 17, 2004]; available from http://www.unesco.org/education/efa/news_en/28.05.03_kenya.shtml.

²²⁷⁴ Kenya CRC Coalition, *Supplementary Report: Kenya*, 5.

²²⁷⁵ U.S. Embassy-Nairobi Official, email communication to USDOL official, May 31, 2005.

Child Labor Laws and Enforcement

The Children's Act of 2001 prohibits all forms of child labor that are exploitative and hazardous, or that would prevent children under the age of 16 from going to school.²²⁷⁶ The Children's Act also prohibits child sexual exploitation.²²⁷⁷ The Constitution prohibits slavery, servitude, and forced labor.²²⁷⁸ The Penal Code prohibits procurement of a girl under 21 to have unlawful sexual relations in Kenya or elsewhere.²²⁷⁹ There are no laws in Kenya prohibiting trafficking, but laws prohibiting child labor, the transportation of children for sale, and the commercial exploitation of children can be used to prosecute traffickers.²²⁸⁰

The Ministry of Labor and Human Resource Development is responsible for enforcing child labor legislation, with the Child Labor Division staffed by 10 officers.²²⁸¹ Based on new instructions issued by the Ministry, findings on child labor must be included in labor inspection reports, and labor inspectors and occupational health and safety officers have been trained to detect and report child labor.²²⁸² The Department of Children's Services (Office of the Vice President and the Ministry of National Heritage) is responsible for the administration of all laws regarding children, particularly awareness raising regarding children's rights and the management of rehabilitation institutions.²²⁸³

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

The Government of Kenya is working with ILO-IPEC and the Central Organization of Trade Unions to eliminate child labor.²²⁸⁴ The government'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.²²⁸⁵ Kenya participates in a 4-year ILO-IPEC regional program funded by USDOL to withdraw, rehabilitate,

²²⁷⁶ U.S. Embassy- Nairobi, *unclassified telegram no. 3531*, August 2003. See also ILO, *NATLEX National Labour Law Database*, [cited March 18, 2004], Children Act, 2001 (No. 8 of 01); available from http://www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_country=KEN&p_classification=04&p_origin=COUNTRY. However, children working in agriculture and as apprentices under the terms of the Industrial Training Act are exempted from the law. See U.S. Department of State, *Country Reports- 2003: Kenya*, Section 6d.

²²⁷⁷ Integrated Regional Information Network, "Kenya: Focus on New Legislation and Hopes for Child Welfare", IRINnews.org, [online], March 1, 2002 [cited May 17, 2004]; available from <http://www.irinnews.org/print.asp?ReportID=23483>.

²²⁷⁸ *The Constitution of Kenya, Revised Edition*, (1998); available from <http://kenya.rcbowen.com/constitution/>.

²²⁷⁹ *Penal Code*, Section 147; available from <http://209.190.246.239/protectionproject/statutesPDF/Kenya1.pdf>. See also ECPAT International, *Kenya*.

²²⁸⁰ U.S. Department of State, *Country Reports- 2003: Kenya*, Section 6f.

²²⁸¹ Central Bureau of Statistics--Ministry of Finance and Planning, *The 1998/99 Child Labor Report*, 7. See also U.S. Embassy- Nairobi, *unclassified telegram no. 3477*, August 2004.

²²⁸² U.S. Department of State, *Country Reports- 2003: Kenya*, Section 6d.

²²⁸³ Central Bureau of Statistics--Ministry of Finance and Planning, *The 1998/99 Child Labor Report*, 7.

²²⁸⁴ U.S. Department of State, *Country Reports- 2003: Kenya*, Section 6d.

²²⁸⁵ 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.

and prevent children from engaging in hazardous work in commercial agriculture in East Africa.²²⁸⁶ The government is also taking part in a 3-year USDOL-funded ILO-IPEC regional project aimed at eliminating the worst forms of child labor in Anglophone Africa,²²⁸⁷ and in a USD 5 million USDOL-funded Timebound Program that will focus on child labor in domestic service; commercial sex; commercial and subsistence agriculture, fisheries and pastoralism; and street working children in informal sectors.²²⁸⁸ In 2003, a human trafficking unit in the police force was created with U.S. assistance.²²⁸⁹ The government and ILO-IPEC are also working to train labor inspectors and to strengthen a database on abused children, particularly working children.²²⁹⁰

Selected Child Labor Measures Adopted by Governments		
Ratified Convention 138	4/9/1979	✓
Ratified Convention 182	5/7/2001	✓
ILO-IPEC Member		✓
National Plan for Children		
National Child Labor Action Plan		
Sector Action Plan		

The Department of Children’s Services, in collaboration with agencies working with children, developed a Children Information Center (CIC) whose aim is to improve planning and management of children’s services, and strengthen partnerships between the government and NGOs.²²⁹¹ The government met with community service organizations, the private sector and local authorities in April 2004, to discuss the increase in the number of street children in Mombasa.²²⁹² The government operates programs to place street children in shelters, and assists NGOs in providing education and protection services to girls who have been abused by employers.²²⁹³ The government also offers an employment program for orphans and abandoned youth that includes training and subsidized employment.²²⁹⁴

Education sector reforms undertaken by the government include strengthening the free primary education policy, promoting good governance and management, and curriculum review and development.²²⁹⁵ The Government of Kenya has also received support from UNICEF to raise the enrollment and primary

²²⁸⁶ In Kenya, the project targets children working in coffee and horticulture. See International Child Labor Program U.S. Department of Labor, *Prevention, Withdrawal and Rehabilitation of Children Engaged in Hazardous Work in the Commercial Agriculture Sector in Africa*, Project Summary.

²²⁸⁷ International Child Labor Program U.S. Department of Labor, *Building the Foundations for Eliminating the Worst Forms of Child Labor in Anglophone Africa*, Project Summary.

²²⁸⁸ The project supports the National Plan of Action for the Elimination of the Worst Forms of Child Labor in Kenya. See ILO-IPEC, *Supporting the National Plan of Action for the Elimination of the Worst Forms of Child Labour in Kenya*, project document, Geneva, September 30, 2004, vi, 42.

²²⁸⁹ U.S. Department of State, *Trafficking in Persons Report- 2004: Kenya*.

²²⁹⁰ U.S. Embassy- Nairobi, *unclassified telegram no. 3477*.

²²⁹¹ Kenya Alliance for Advancement of Children, *KAACR Weekly Update, Issue 10*, in Kenya Alliance for Advancement of Children, [online] April 1-7, 2004 [cited May 13, 2004]; available from <http://www.kaacr.com/weeklyup.html>.

²²⁹² Ibid.

²²⁹³ U.S. Department of State, *Country Reports- 2003: Kenya*, Section 5.

²²⁹⁴ The fledgling program can be extended to reach trafficking victims as well. See U.S. Department of State, *Trafficking in Persons Report- 2004: Kenya*.

²²⁹⁵ Republic of Kenya, *Millennium Development Goals: Progress Report for Kenya*, 2003.

completion rates for girls.²²⁹⁶ To support the government's policy of free primary education, the World Bank is providing USD 50 million, the majority of which will be used to enhance the provision of textbooks.²²⁹⁷ The World Bank has also been supporting an early childhood development project, which has among its objectives increasing enrollment and reducing dropout and repetition rates in lower primary school.²²⁹⁸ The government has made a contribution valued at USD 2.9 million to the WFP's school feeding program.²²⁹⁹ The U.S. Department of Agriculture is also providing funds to support nutritious school meals for children.²³⁰⁰ In June 2004, Kenya participated in a meeting in Nairobi that focused on ways to enhance good practices in girls' education in Africa.²³⁰¹

²²⁹⁶ UNICEF, *At a glance: Kenya*, in UNICEF, [online] n.d. [cited March 25, 2004]; available from <http://www.unicef.org/infobycountry/kenya.html>.

²²⁹⁷ World Bank, *Free Primary Education Support Project*, in World Bank, [online] n.d. [cited April 1, 2004]; 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*.

²²⁹⁸ World Bank, *Early Childhood Development Project*, [online] [cited May 17, 2004]; available from <http://web.worldbank.org/external/projects/main?pagePK=104231&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P034180>.

²²⁹⁹ Integrated Regional Information Network, "KENYA: WFP hails gov't contribution to school feeding programme", IRINnews.org, [online], December 23, 2003 [cited February 12, 2004]; available from <http://www.irinnews.org/print.asp?ReportID=38567>.

²³⁰⁰ U.S. Department of State, *U.S. Funds Will Provide School Meals in Latin America, Caribbean*, press release, Washington, D.C., August 17, 2004; available from <http://usinfo.state.gov/xarchives/display.html?p=washfile-english&y=2004&m=August&x=20040817152631AEneerG0.8231623&t=livefeeds/wf-latest.html>.

²³⁰¹ UNICEF, *Ministers of Education and technical experts meet in Nairobi to discuss scaling up what works for girls' education in sub-Saharan Africa*, press release, June 24, 2004; available from http://www.unicef.org/media/media_21926.html.