

## South Africa

### *Selected Statistics and Indicators on Child Labor*

Percent of children 5-14 estimated as working:	Unavailable
Minimum age for admission to work:	15 <sup>3843</sup>
Age to which education is compulsory:	15 <sup>3844</sup>
Free public education:	No <sup>3845*</sup>
Gross primary enrollment rate in 2003:	105% <sup>3846</sup>
Net primary enrollment rate in 2003:	89% <sup>3847</sup>
Percent of children 5-14 attending school:	Unavailable
As of 2002, percent of primary school entrants likely to reach grade 5:	84% <sup>3848</sup>
Ratified Convention 138:	03/30/2000 <sup>3849</sup>
Ratified Convention 182:	06/07/2000 <sup>3850</sup>
ILO-IPEC participating country:	Yes <sup>3851</sup>

\*Poor households may claim an exemption from school fees.

### Incidence and Nature of Child Labor

Working children in South Africa are often found in family enterprises without pay, primarily in agriculture and trade.<sup>3852</sup> A higher proportion of children in rural areas than urban areas are engaged in some type of work.<sup>3853</sup> Rural children fetch wood and water and work in commercial agriculture and on subsistence farms planting and harvesting vegetables, picking and packing fruit, and cutting flowers.<sup>3854</sup> Children work as paid domestic servants in the homes of third parties, particularly in urban areas. Many work as unpaid domestic servants, especially on subsistence farms.<sup>3855</sup> In urban areas, children work on the streets as vendors, car guards, trolley

<sup>3843</sup> U.S. Department of State, "South Africa," in *Country Reports on Human Rights Practices- 2005*, Washington, D.C., March 8, 2006, Section 6d; available from <http://www.state.gov/g/drl/rls/hrrpt/2005/61593.htm>.

<sup>3844</sup> *Government of South Africa, South African Schools Act, No. 84 of 1996, (November 15, 1996), Chapter 2, Sections 3(1), 5, 6.*

<sup>3845</sup> U.S. Consulate- Johannesburg, *reporting*, September 3, 2004, para 9.

<sup>3846</sup> UNESCO Institute for Statistics, *Gross Enrolment Ratio. Primary. Total* accessed December 20, 2006; available from <http://stats.uis.unesco.org>.

<sup>3847</sup> UNESCO Institute for Statistics, *Net Enrolment Ratio. Primary. Total* accessed December 20, 2006; available from <http://stats.uis.unesco.org>.

<sup>3848</sup> UNESCO Institute for Statistics, *Survival Rate to Grade 5. Total* accessed December 18, 2006; available from <http://stats.uis.unesco.org/>.

<sup>3849</sup> ILO, *Ratifications by Country*; accessed September 25, 2006; available from <http://www.ilo.org/ilolex/english/docs/declAFpr.htm>.

<sup>3850</sup> *Ibid.*

<sup>3851</sup> ILO-IPEC, *IPEC action against child labour-highlights 2006*, Geneva, October, 2006; available from [http://www.ilo.org/iloroot/docstore/ipcc/prod/eng/20061019\\_Implementationreport\\_eng\\_Web.pdf](http://www.ilo.org/iloroot/docstore/ipcc/prod/eng/20061019_Implementationreport_eng_Web.pdf).

<sup>3852</sup> Dawie Bosch & Associates, *Towards a National Child Labour Action Programme for South Africa*, Pretoria, October 2002, 19; available from [http://www.labour.gov.za/useful\\_docs/doc\\_display.jsp?id=9504](http://www.labour.gov.za/useful_docs/doc_display.jsp?id=9504). See also U.S. Department of State, "Country Reports- 2005: South Africa," Section 6d.

<sup>3853</sup> Dawie Bosch & Associates, *Towards a National Child Labour Action Programme*, 19.

<sup>3854</sup> U.S. Consulate- Johannesburg, *reporting, September 3, 2004*, para 2.

<sup>3855</sup> Debbie Budlender and Dawie Bosch, *Child Domestic Workers: A National Report; No 39*, ILO-IPEC, Geneva, May, 2002, ix, x, and xii; available from <http://www.ilo.org/public/english/standards/ipcc/simpoc/southafrica/others/domestic.pdf>.

attendants, shop assistants, and taxi conductors.<sup>3856</sup> Some children are forced into prostitution to support their families.<sup>3857</sup>

South Africa is a country of origin, transit, and destination for children trafficked for sexual exploitation and forced labor.<sup>3858</sup> Girls are trafficked from Mozambique, Swaziland, Tanzania, China, and Thailand into South Africa for sexual exploitation.<sup>3859</sup> Boys are trafficked to South Africa for forced agricultural work from neighboring countries.<sup>3860</sup> Boys and girls are trafficked from Lesotho to South Africa for sexual exploitation.<sup>3861</sup> Trafficking of children from rural areas to urban areas for domestic service is also a problem.<sup>3862</sup> South African girls are occasionally trafficked to Asian and European countries for sexual exploitation.<sup>3863</sup>

## Child Labor Laws and Enforcement

The law establishes the minimum age for employment at 15 years.<sup>3864</sup> Employers may hire children less than 15 to work in the performing arts with permission from the South African Department of Labor.<sup>3865</sup> Children who are under 18 years may not perform work that is harmful to their well-being and development.<sup>3866</sup> The Minister of Labor is authorized to set additional restrictions on the employment of children 15 years and above.<sup>3867</sup> The law provides for the right of every child, defined as a person less than 18 years, to be protected from age-inappropriate and exploitive labor practices.<sup>3868</sup> The penalty for illegally employing a child under the law is a fine or a maximum jail term of 3 years.<sup>3869</sup>

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<sup>3856</sup> ILO-IPEC, *HIV/AIDS and Child Labour in South Africa: A rapid assessment*, Paper No. 4, March 2003, 27 and 38.

<sup>3857</sup> U.S. Consulate- Johannesburg, *reporting, September 3, 2004*, para 10.

<sup>3858</sup> U.S. Department of State, "South Africa (Tier 2 Watch List)," in *Trafficking in Persons Report- 2006*, Washington, DC, June 5, 2006; available from <http://www.state.gov/g/tip/rls/tiprpt/2006/65990.htm>.

<sup>3859</sup> *Ibid.* See also U.S. Department of State, "Tanzania (Tier 2 Watch List)," in *Trafficking in Persons Report- 2006*, Washington, DC, June 5, 2006; available from <http://www.state.gov/g/tip/rls/tiprpt/2006/65990.htm>. See also U.S. Department of State, "South Africa," in *Country Reports on Human Rights Practices- 2006* Washington, DC, March 6, 2007, Section 5; available from <http://www.state.gov/g/drl/rls/hrrpt/2006/78758.htm>. See also International Organization for Migration, *The Trafficking of Women and Children in the Southern African Region*, Pretoria, March 24, 2003, 11; available from <http://www.iom.int/documents/publication/en/southernafrica%5Ftrafficking.pdf>.

<sup>3860</sup> U.S. Department of State, "Trafficking in Persons Report- 2006: South Africa."

<sup>3861</sup> International Organization for Migration, *Trafficking of Women and Children- Southern African Region*, 12.

<sup>3862</sup> U.S. Consulate- Johannesburg, *reporting, September 3, 2004*, para 5.

<sup>3863</sup> U.S. Department of State, "Trafficking in Persons Report- 2006: South Africa."

<sup>3864</sup> Government of South Africa, *Basic Conditions of Employment Act 75 of 1997*, (December 5, 1997), 43(1)(a)(b), 43(3), 93; available from [http://www.workinfo.com/free/Sub\\_for\\_legres/data/bcea1998.htm](http://www.workinfo.com/free/Sub_for_legres/data/bcea1998.htm).

<sup>3865</sup> U.S. Consulate- Johannesburg, *reporting, September 3, 2004*, para 4. See also South African Department of Labour, *Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities*, 2007; available from [http://www.labour.gov.za/legislation/sectoral\\_display.jsp?id=7213](http://www.labour.gov.za/legislation/sectoral_display.jsp?id=7213).

<sup>3866</sup> U.S. Department of State, "Country Reports- 2006: South Africa," Section 6d. See also Government of South Africa, *Amended Basic Conditions of Employment Act*, (2002), Section 43 (1-2); available from [http://www.labour.gov.za/act/section\\_detail.jsp?legislationId=5538&actId=6178&sectionId=6980](http://www.labour.gov.za/act/section_detail.jsp?legislationId=5538&actId=6178&sectionId=6980).

<sup>3867</sup> Government of South Africa, *Basic Conditions of Employment Act*, Sections 44(1), 44(2).

<sup>3868</sup> Government of South Africa, *Constitution of the Republic of South Africa*, (December 10, 1996), Chapter 2, Sections 28(3), 28(1)(e) and (f); available from <http://www.concourt.gov.za/constitution/const02.html#28>.

<sup>3869</sup> Government of South Africa, *Basic Conditions of Employment Act*, Sections 43(1)(a)(b), 43(3), 44(2), 48, and 11(93).

The law prohibits all forms of forced labor and establishes a maximum penalty of 3 years in prison for imposing forced labor on another person.<sup>3870</sup> The law specifically bans the trafficking of children.<sup>3871</sup> The maximum penalty for violating this law is 20 imprisonment.<sup>3872</sup> The law establishes 18 years as the minimum age for voluntary military service, military training, and conscription, even in times of national emergency.<sup>3873</sup> The law criminalizes the sexual exploitation of children and sets a penalty of up to 10 years of imprisonment and/or a fine for any person who participates in or is involved in such activity.<sup>3874</sup> The law also states that children can be arrested for prostitution despite being victims of commercial sexual exploitation. Such cases, however, are generally referred by the Office of the National Director of Public Prosecutions to children's courts, which determine the children's need for care.<sup>3875</sup>

The South African Department of Labor (SADOL) is tasked with enforcing child labor laws. There are approximately 1,000 labor inspectors nationwide, who have the responsibility of enforcing labor laws, including child labor.<sup>3876</sup> According to the U.S. Department of State, the SADOL adequately enforces child labor laws in the formal non-agricultural sector, but less so in other sectors.<sup>3877</sup>

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

The South African Social Security Agency provides grant assistance to some children 13 years and under to help them meet basic necessities and stay out of the workforce.<sup>3878</sup> The Child Protection Unit (CPU) and the Family Violence, Child Protection, and the Sexual Offenses Unit (FCS) within the South African Police Service also are involved in child protection. The CPU offers services to child victims; it also investigates and raises awareness of crimes against children.<sup>3879</sup>

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<sup>3870</sup> Ibid., 48 and 11 (93).

<sup>3871</sup> U.S. Department of State, *reporting*, January 10, 2007, para 1a.

<sup>3872</sup> U.S. Department of State, "Country Reports- 2006: South Africa," Section 5.

<sup>3873</sup> Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report* [online] 2004 [cited October 19, 2006]; available from [http://www.child-soldiers.org/document\\_get.php?id=797](http://www.child-soldiers.org/document_get.php?id=797).

<sup>3874</sup> Government of South Africa, *Child Care Amendment Act*, (1999), Section 50A.

<sup>3875</sup> Government of South Africa, *The National Child Labour Action Programme for South Africa, Draft 4.10*, Pretoria, October 2003, 21; available from [http://www.labour.gov.za/useful\\_docs/doc\\_display.jsp?id=9503](http://www.labour.gov.za/useful_docs/doc_display.jsp?id=9503). See also *Forbidden or forgiven? The legal status of sex work in South Africa*, October 1999 [cited October 19, 2006]; available from [http://www.communitylawcentre.org.za/gender/gendernews1999/1999\\_2\\_sex.php#sex](http://www.communitylawcentre.org.za/gender/gendernews1999/1999_2_sex.php#sex).

<sup>3876</sup> U.S. Department of State, "Country Reports- 2006: South Africa," Section 6d.

<sup>3877</sup> U.S. Consulate- Johannesburg, *reporting, September 3, 2004*, para 5. See also U.S. Department of State, "Country Reports- 2005: South Africa," Section 6d. See also U.S. Consulate- Johannesburg, *reporting*, October 5, 2001, para 8.

<sup>3878</sup> U.S. Department of State, *reporting*, September 1, 2005, para 1 and 2c. See also, Government of South Africa, *National Child Labour Action Programme*, 19.

<sup>3879</sup> *Child Protection Unit*, August, 2003 [cited October 19, 2006]; available from <http://www.saspcan.org.za/childprot.htm>.

The Government of South Africa enacted the Children's Bill in 2006. This new legislation specifically outlaws the trafficking of children, creates children's courts, and establishes a child protection register.<sup>3880</sup>

The SADOL chairs the Child Labor Intersectoral Group (CLIG), a national stakeholder group that coordinates anti-child labor activities conducted by the government, unions, and NGOs, and raises awareness about child labor and the enforcement of child labor laws.<sup>3881</sup>

In collaboration with the government, ILO-IPEC is implementing a USD 5 million USDOL-funded regional child labor project in Southern Africa, which includes South Africa. Efforts in South Africa are focused on supporting the Government of South Africa's Child Labor Program of Action by raising awareness, enhancing capacity for policy implementation and monitoring, and through direct action programs.<sup>3882</sup> This project aims to withdraw 688 children and prevent 2,216 children from engaging in exploitive labor.<sup>3883</sup> The American Institutes for Research is also implementing a USD 9 million regional Child Labor Education Initiative project funded by USDOL in Southern Africa. It is also working with the Government of South Africa to improve quality and access to basic and vocational education for South African children who are working in, or are at risk of working in, the worst forms of child labor.<sup>3884</sup> Over its lifetime, this project intends to prevent 10,000 children in five countries, including South Africa, from engaging in exploitive labor.<sup>3885</sup>

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<sup>3880</sup> U.S. Department of State, *reporting*, January 10, 2007, para 1a.

<sup>3881</sup> Dawie Bosch & Associates, *Towards a National Child Labour Action Programme*, 8.

<sup>3882</sup> ILO-IPEC, *Supporting the Time-Bound Programme to eliminate the Worst Forms of Child Labor in South Africa's Child labor Action Programme and laying the basis for concerted action against Worst Forms of Child Labor in Botswana, Lesotho, Namibia, and Swaziland*, project document, September 30, 2003, 30.

<sup>3883</sup> ILO-IPEC, *Supporting the Time-Bound Programme to eliminate the Worst Forms of Child Labor in South Africa's Child labor Action Programme and laying the basis for concerted action against Worst Forms of Child Labor in Botswana, Lesotho, Namibia, and Swaziland*, project revision, November 3, 2006, Annexure 2.

<sup>3884</sup> ECLT Foundation, *ECLT Foundation Program in Uganda 2003-2006: The Project for Elimination of Child Labour from Tobacco Farms in Masindi District, Uganda*, [online] November 14, 2004 [cited May 26, 2004], 1,2; available from <http://www.eclt.org/filestore/UgandaProgramme.pdf>.

<sup>3885</sup> American Institutes for Research, *Reducing Exploitive Child Labor Southern Africa (RECLISA)*, project document, Washington September 8, 2005, 22.