

Kenya

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

In 1992, the Government of Kenya became one of the six original countries to participate in ILO-IPEC. Since then, 67 action programs on child labor have been launched targeting domestic service, cross-border trade, quarries and mines, fishing, construction, and the hotel and tourism industries. Kenya is also a part of an ILO-IPEC regional program funded by USDOL to prevent, withdraw, and rehabilitate children engaged in hazardous work in the commercial agriculture sector in East Africa.¹³⁶⁸ In all, some 7,000 children have received assistance through ILO-IPEC child labor programs.¹³⁶⁹ In 2000, the government conducted a child labor survey with technical assistance from ILO-IPEC's SIMPOC.¹³⁷⁰

UNICEF is also active in Kenya, working to help formulate policy on issues affecting children, and monitoring and evaluating public sector and civil society child labor efforts. Since 1999, UNICEF and the Government of Kenya have implemented a project for children in need of special protection, focusing on street children.¹³⁷¹

To promote girls' education, in 1995 the government created a gender unit within the Ministry of Education that works with other ministries within the government, with NGOs, and community leaders. In addition, the Ministry of Education has worked with UNICEF on a girl child program, which aims to close the gender gap in education.¹³⁷²

Incidence and Nature of Child Labor

In 2000, a child labor survey conducted by the Kenyan Central Bureau of Statistics in cooperation with ILO-IPEC estimated that 18 percent of children between the ages of 5 and 17 in Kenya were working.¹³⁷³ According to the ILO, 57.6 percent of child laborers work in commercial or subsistence agriculture and fishing, and 17.9 percent as domestic workers.¹³⁷⁴ Children also

¹³⁶⁸ ILO-IPEC, *Regional Programme on the Prevention, Withdrawal and Rehabilitation of Children Engaged in Hazardous Work in the Commercial Agriculture Sector in Africa*, project document (Geneva, 2000) [on-file].

¹³⁶⁹ ILO-IPEC, *Kenya Country Program 1992-2001*, at *Introduction: Brief Profile of Activities* (Nairobi, May 2001) [hereinafter *Profile of Activities*] at 1.

¹³⁷⁰ *Ibid.*

¹³⁷¹ UNICEF-Kenya, *Country Project Proposals, 1999-2003* (Nairobi: UNICEF, October 1998), 31-44.

¹³⁷² *Education for All (EFA 2000) Assessment of Progress, Kenya Country Report* (Nairobi: Ministry of Education and Human Resource Development, 1999) [hereinafter *EFA Assessment*], at 30.

¹³⁷³ *Profile of Activities*.

¹³⁷⁴ *Ibid.*, at *Introduction*.

work in construction, wholesale and retail trade, mining, and manufacturing, particularly in textile mills and chemical factories.¹³⁷⁵ Children employed in the hotel industry and street children are often drawn into commercial sex work.¹³⁷⁶ 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.¹³⁷⁷ Nearly half of the jobs that children perform are in the informal sector. Cases of forced labor, in which children are loaned out to creditors to pay off family debt, have also been documented in Kenya.¹³⁷⁸

Education is compulsory for eight years, between the ages of 6 and 14.¹³⁷⁹ In 1989, it replaced its free system of education with a “cost sharing” system in which students pay both tuition and other associated schooling costs.¹³⁸⁰ In 1995, the gross primary enrollment rate was 84.9 percent.¹³⁸¹ There is gender parity in terms of enrollment and attendance in Kenya. Of students enrolled in primary school in 1997, 46 percent completed the fifth grade, and 45 percent of those completing primary school transitioned to secondary school.¹³⁸²

Child Labor Laws and Enforcement

The Employment Act of 1976 sets the minimum age for employment in industrial undertakings at 16 years; however, the law does not apply to children working in the agriculture sector or to children serving as apprentices.¹³⁸³ The Employment Act prohibits the employment of children in mines, quarries and other works for the extraction of any substance from or under the surface of the earth, factories, construction sites, the transportation of passengers or goods, and open cast or sub-surface employment. The Employment (Children) Rules of 1977 sets establish

¹³⁷⁵ Republic of Kenya, Ministry of Education, and ILO-IPEC, *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 (Nairobi: Ministry of Education, 1997) [hereinafter *Action Program on Child Labor*], 60-71.

¹³⁷⁶ *Ibid.* at 69, 70.

¹³⁷⁷ *Ibid.* at 70.

¹³⁷⁸ *Country Reports on Human Rights Practices for 2000—Kenya* (Washington, DC: U.S. Department of State, January 2000) [hereinafter *Country Reports 2000*], Section 6e, at <http://www.state.gov/g/drl/rls/hrrpt/2000/af/index.cfm?docid=841>.

¹³⁷⁹ UNESCO, “Kenya—Education System: Structure of Education System,” at www.unesco.org/iau/cd-data/ke.rtf on 3/18/01.

¹³⁸⁰ *Country Reports 2000* at Section 5.

¹³⁸¹ *World Development Indicators 2001* (Washington D.C.: World Bank, 2000) [CD-ROM].

¹³⁸² *EFA Assessment*, 27, 28.

policies for the employment of children in permissible sectors and industries.¹³⁸⁴ Industrial child labor is also prohibited by the Employment of Women, Young Persons and Children Ordinance of 1948, which establishes procedures for prohibiting child labor in industrial sectors.¹³⁸⁵ The Constitution prohibits slavery, servitude and forced labor.¹³⁸⁶

The Ministry of Labor and Human Resource Development's Child Labor Unit and District Children's Advisory Committees, are involved in administering child labor laws.¹³⁸⁷ 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. 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.¹³⁸⁸ Kenya ratified ILO Convention 138 on April 9, 1979 and ILO Convention 182 on May 7, 2001.¹³⁸⁹

¹³⁸⁴ Federation of Kenya Employers (FKE), "FKE Guidelines on Employment of Children" (Nairobi: Federation of Kenya Employers, 1996). *See also* Benson Oyuga, Collette Suda, and Afia Mugambi, *A Study of Action Against Child Labour in Kenya: Towards a Best Practice Guide on Sustainable Action Against Child Labour for Policy Makers* (Nairobi: ILO-IPEC, 1997), 27. *See also* U.S. Embassy–Nairobi, unclassified telegram no. 7028, November 2001 [hereinafter unclassified telegram 7028].

¹³⁸⁵ *Sweat and Toil*, vol. V, 9, 10.

¹³⁸⁶ Constitution of Kenya, Revised Edition 1998, Article 73, at <http://kenya.rcbowen.com/constitution/> on 1/17/01.

¹³⁸⁷ *Profile of Activities* at 1.

¹³⁸⁸ Unclassified telegram 7028.

¹³⁸⁹ ILOLEX database: Kenya at <http://ilolex.ilo.ch:1567/scripts/ratifce.pl?C182>.

NOTE: Hard copies of Web citations are on file.