

Malawi

Incidence and Nature of Child Labor

The Malawi National Statistics Office estimated that 35.5 percent of children ages 5 to 14 years were working in Malawi in 2002.²⁵⁰² Children work mainly in farming and domestic service.²⁵⁰³ To a lesser extent, children also work in other informal sector jobs, such as street-side welding, bicycle repair, furniture making, and brick kilns.²⁵⁰⁴ A 1999 study estimated the number of children on the streets of three major cities to be roughly 2,000.²⁵⁰⁵ Children in the agricultural sector work alongside their parents in fields where their parents work as tenant farmers.²⁵⁰⁶ Children work in crop production on tea estates and on commercial tobacco farms, where the incidence of working children has traditionally been high.²⁵⁰⁷ Bonded labor has historically been common among tobacco tenants and their families, including children.²⁵⁰⁸ There are also reports that young girls have been traded or sold among tribal chiefs along the border with Tanzania.²⁵⁰⁹ Over the past 2 years, the practice of poor families exchanging daughters for cattle or money has reportedly re-emerged, though not in large numbers.²⁵¹⁰

²⁵⁰² Another 44.7 percent of children ages 15 to 17 years were also found working. Working children are defined as children under 14 years who reported working over 7 hours in the week prior to the survey. See Government of Malawi and ILO-IPEC, *Malawi Child Labor 2002 Report*, Lilongwe, February 2004, 19, 32, 50. 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.

²⁵⁰³ U.S. Department of State, *Country Human Rights Practices- 2003: Malawi*, Washington, D.C., February 25, 2004, Section 6d; available from <http://www.state.gov/g/drl/rls/hrrpt/2003/27737.htm>. Most child laborers between the ages of 5 to 17 years are engaged in housekeeping or domestic activities (53.1 percent); followed by agriculture, forestry, hunting and fishing (44 percent); sales work (1.6 percent); and service work (1.2 percent). See Government of Malawi and ILO-IPEC, *Malawi Child Labor 2002 Report*, 39.

²⁵⁰⁴ U.S. Department of State, *Country Reports- 2003: Malawi*, Section 6d. See also U.S. Embassy- Lilongwe, *unclassified telegram no. 390*, February 2001. See also The Republic of Malawi, *National Report on The Follow-Up to The World Summit For Children*, UNICEF, 2000, 3; available from http://www.unicef.org/specialsession/how_country/edr_malawi_en.PDF. See also ILO/IFBWW, *Change in Malawi: Children Working in the Brick Kilns*, Geneva, March 2001.

²⁵⁰⁵ The Republic of Malawi, *National Report on the Follow-Up*, 16.

²⁵⁰⁶ U.S. Embassy- Lilongwe, *unclassified telegram no. 1873*, October 2001. See also Line Eldering, Sabata Nakanyane, and Malehoko Tshoaedi, "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. An ILO-IPEC study demonstrated that 94 percent of children working in agriculture in the sample study were under 14 years old, 87 percent missed school as a result of work, and 50 percent were injured on the job during the previous 12 months. See ILO-IPEC, *Malawi Child Labor Baseline Survey Report*, February 12, 2003, 25, 26, 30.

²⁵⁰⁷ 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, para 35; available from <http://www.ilo.org/public/english/standards/ipecc/publ/policy/papers/africa/index.htm>. See also U.S. Department of State, *Country Reports- 2003: Malawi*, Section 6d. See also Eldering, Nakanyane, and Tshoaedi, "Child Labor in the Tobacco Growing Sector in Africa", 39-40.

²⁵⁰⁸ Liv Tørres, *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 of Malawi*, online, Geneva, February 6-8, 2002; available from <http://www.icftu.org/displaydocument.asp?Index=991214742&Language=EN&Printout=Yes>.

²⁵⁰⁹ U.S. Embassy- Lilongwe, *unclassified telegram no. 199*, March 2004.

²⁵¹⁰ U.S. Department of State, *Country Reports- 2003: Malawi*, Section 5.

Malawi is a source country for children trafficked regionally and internationally for menial labor or commercial sexual exploitation.²⁵¹¹ There are also unconfirmed reports of small numbers of children trafficked internally to resort areas around Lake Malawi for sex tourism.²⁵¹² In Malawi, the HIV/AIDS epidemic has left close to half a million children orphaned. Many of these children rely on informal work to supplement lost family income, and some work as caregivers for sick adults.²⁵¹³ The epidemic has also increased the demand for younger prostitutes who are perceived as healthier by their exploiters.²⁵¹⁴

Primary education is free and guaranteed by the Constitution, although it is not compulsory.²⁵¹⁵ In 2001-2002, the gross primary enrollment rate was 146 percent and the net primary enrollment rate was 81 percent.²⁵¹⁶ 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. In 2000, the gross primary attendance rate was 109.7 percent, and the net primary attendance rate was 78.2 percent.²⁵¹⁷ The rate of repetition in 2001-2002 was 14 percent.²⁵¹⁸ According to a study carried out in 2003, 10.5 percent of girls who enrolled in school each year dropped out compared to 8.4 percent of boys. Approximately 22 percent of primary school age girls were not in school, and another 60 percent of those enrolled were found not to attend school regularly.²⁵¹⁹ Indirect costs of education, family illnesses, and lack of interest in

²⁵¹¹ U.S. Department of State, *Trafficking In Persons Report- 2004: Malawi*, U.S. Department of State, Washington, D.C., June 14, 2004; available from <http://www.state.gov/g/tip/rls/tiprpt/2004/33189.htm>. However, there is insignificant data to qualify Malawi as a country with a significant number of victims of severe forms of trafficking. See U.S. Embassy- Lilongwe, *unclassified telegram no. 199*.

²⁵¹² U.S. Department of State, *Trafficking In Persons Report- 2004: Malawi*.

²⁵¹³ UNAIDS/WHO, *Epidemiological Fact Sheet on HIV/AIDS and sexually transmitted infections: 2002 Update*, [online database] 2002 [cited February 27, 2004], 2; available from http://www.who.int/emc-hiv/fact_sheets/pdfs/Malawi_EN.pdf. See also ILO-IPEC Director General, "A Future without Child Labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights to Work" (paper presented at the International Labour Conference, 90th Session 2002, Geneva, 2002), 41-43; available from <http://www.ilo.org/public/english/standards/decl/download/global3/part1chapter3.pdf>.

²⁵¹⁴ U.S. Department of State, *Trafficking In Persons Report- 2004: Malawi*. Within a sample of 549 children involved in commercial sexual exploitation 14.9 percent were under the age of 14 years. See Government of Malawi and ILO-IPEC, *Malawi Child Labor 2002 Report*, 87.

²⁵¹⁵ *Constitution of the Republic of Malawi*, Chapter IV, Human Rights, 25. -1., 2.; available from <http://www.sdn.org.mw/constitut/chapter4.html#15>. Families are responsible for school fees, book fees, and uniforms. See U.S. Department of State, *Country Reports- 2003: Malawi*, Section 5.

²⁵¹⁶ UNESCO Institute for Statistics, *Global Education Digest* [CD-ROM], Montreal, 2004; available from http://portal.unesco.org/uis/TEMPLATE/html/HTMLTables/education/gerner_primary.htm. 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.

²⁵¹⁷ USAID Development Indicators Service, *Global Education Database*, [online] 2004 [cited October 10, 2004]; available from <http://quesdb.cdie.org/ged/index.html>.

²⁵¹⁸ UNESCO Institute for Statistics, *Global Education Digest*.

²⁵¹⁹ Integrated Regional Information Networks, "Malawi: Girls still disadvantaged, despite free schooling", IRINnews.org, [online], August 11, 2004; available from http://www.irinnews.org/report.asp?ReportID=42628&SelectRegion=Southern_Africa. There are also gaps in the achievement levels between boys and girls as well as gaps in secondary school attendance. See U.S. Department of State, *Country Reports- 2003: Malawi*, Section 5.

education are lowering school attendance.²⁵²⁰ The sexual abuse of female students has also had a negative impact on girls' attendance.²⁵²¹ Insufficient finances, lack of teachers and teaching materials, poor sanitation, poor teaching methods, and inadequate classrooms have contributed to the government's inability to consistently provide quality education.²⁵²²

Child Labor Law and Enforcement

The Employment Act of 2000 sets the minimum age of employment at 14 years. Exceptions are made for work done under certain conditions in vocational technical schools, other training institutions, and in homes.²⁵²³ The Act prohibits children between the ages of 14 and 18 from performing hazardous work or work that interferes with their attendance at school or any vocational or training program.²⁵²⁴ The Constitution of Malawi protects children against economic exploitation as well as treatment, work or punishment that is hazardous; interferes with their education; or is harmful to their health or physical, mental or spiritual and social development.²⁵²⁵ There is no specific legal restriction on the number of hours children may work.²⁵²⁶ Employers are required to keep a register of all employees under the age of 18 years, and violation of the law can result in a fine of Malawi Kwacha (MK) 20,000 (USD 186) and 5 years imprisonment.²⁵²⁷ Both the Constitution and the Employment Act prohibit forced and compulsory labor. Violators are liable for penalties of MK 10,000 (USD 93) and 2 years imprisonment under the Employment Act.²⁵²⁸

Although there are no specific protections against the sexual exploitation of children, the age of consent is 14 years.²⁵²⁹ Trafficking in persons is not specifically prohibited by law, but the penal code contains several

²⁵²⁰ 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., May 26, 2002, 5; available from <http://www.worldbank.org/afr/wps/wp29.htm>. See also 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, 10, 16; available from <http://www.ids.ac.uk/ids/bookshop/wp/wp124.pdf>.

²⁵²¹ Integrated Regional Information Networks, "Southern Africa: Sexual abuse of schoolgirls largely unpunished", IRINnews.org, [online], February 6, 2004 [cited February 11, 2004]; available from <http://www.irinnews.org/print.asp?ReportID=39353>.

²⁵²² Samer Al-Samarrai and Hassan Zaman, *The Changing Distribution of Public Education Expenditure in Malawi*, 5. The education budget has decreased over the past four years. See UN Committee on the Rights of the Child, *Initial report of Malawi (continued)*, CRC/C/SR.766, prepared by The Republic of Malawi, pursuant to Article 44 of the Convention on the Rights of the Child, April 27, 2003, paras 51, 52.

²⁵²³ *Employment Act of 2000*, (2000), Part IV-Employment of Young Persons, 21; available from <http://www.sdn.org.mw/~esaia/ettah/employment-act/>.

²⁵²⁴ *Ibid.*, Part IV-Employment of Young Persons, 22.

²⁵²⁵ The Constitution defines children as under 16 years old. See *Constitution of the Republic of Malawi*, Chapter IV, Human Rights, 23.

²⁵²⁶ U.S. Department of State, *Country Reports- 2003: Malawi*, Section 6d.

²⁵²⁷ *Employment Act*, Part IV-Employment of Young Persons, 23-24. For currency conversion see FXConverter, in Oanda.com, [online] [cited May 28, 2004]; available from <http://www.oanda.com/convert/classic>.

²⁵²⁸ *Constitution of the Republic of Malawi*, Chapter IV, Human Rights, 27. See also *Employment Act*, Part II-Fundamental Principles, 4. (1)-(2). For currency conversion see FXConverter.

²⁵²⁹ U.S. Department of State, *Country Reports- 2003: Malawi*, Section 5.

provisions which may be used to prosecute human traffickers.²⁵³⁰ Specifically, it prohibits the procurement of any girl under the age of 21 years to have unlawful sexual relations, either in Malawi or elsewhere.²⁵³¹ The procurement, promotion, management, and transporting of a person for prostitution carries a 14-year sentence.²⁵³²

The Ministry of Labor and Vocational Training (MOLVT) and the police are charged with enforcing child labor laws, and recent efforts to strengthen enforcement are ongoing.²⁵³³ There were three prosecutions or convictions in the past year.²⁵³⁴ The Labor Commissioner reports that the government has trained 120 out of 150 labor officers in child labor monitoring, reporting and inspection. The Ministry has also organized youth village committees to monitor and report on child labor. The Ministry of Gender, Child Welfare, and Community Services handles trafficking cases.²⁵³⁵ Interpol and the South African Regional Police Chiefs Organization are working with the Malawian police to identify and investigate traffickers.²⁵³⁶ The government provides some assistance, commensurate with its limited resources and capacity, to victims of trafficking. In partnership with various NGOs, the government provided counseling, rehabilitation, and reintegration services for abused and exploited children.²⁵³⁷ According to the U.S. Department of State, enforcement of child labor laws by the police and MOLVT inspectors is limited due to resource and capacity constraints.²⁵³⁸

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

The Government of Malawi through its MOLVT chairs a National Steering Committee on Child Labor,²⁵³⁹ which has developed an action plan against child labor.²⁵⁴⁰ A Child Rights Unit within the Human Rights

²⁵³⁰ Ibid., Section 6f. Legislation to criminalize trafficking in persons was introduced into Parliament in 2003 but not passed. See U.S. Embassy- Lilongwe, *unclassified telegram no. 199*.

²⁵³¹ Government of Malawi, *The Penal Code*, as cited in The Protection Project Legal Library, 140; available from <http://209.190.246.239/protectionproject/statutesPDF/UgandaF.pdf>.

²⁵³² 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>.

²⁵³³ U.S. Department of State, *Country Reports- 2003: Malawi*, Section 6d. See also U.S. Embassy- Lilongwe official, email communication to USDOL official, May 20, 2005.

²⁵³⁴ U.S. Embassy- Lilongwe, *unclassified telegram no. 821*, August 2004. See also U.S. Embassy- Lilongwe official, email communication, May 20, 2005.

²⁵³⁵ U.S. Department of State, *Country Reports- 2003: Malawi*, Section 6f.

²⁵³⁶ U.S. Department of State, *Trafficking In Persons Report- 2004: Malawi*.

²⁵³⁷ U.S. Embassy- Lilongwe official, email communication, May 20, 2005.

²⁵³⁸ U.S. Department of State, *Country Reports- 2003: Malawi*, Section 6d and 6f.

²⁵³⁹ The Labor Commissioner chairs the committee. Membership includes government, donors, workers, employers, representatives and civil society organizations. See ILO-IPEC, *Baseline Survey Report*, 49.

²⁵⁴⁰ The plan includes the drafting of a national policy against child labor, reviewing existing legislation, adopting a code of conduct against the employment of children, training more labor inspectors, establishing child labor monitoring committees, and coordinating income generation activities. See Committee of Experts on the Application of Conventions and Recommendations, *Minimum Age Convention, 1973 (No. 138) Malawi (ratification: 1999) Observation, CEAR 2003/74th Session*, 2003. See also ILO-IPEC, *Baseline Survey Report*, 50.

Commission protects children from abuse, violence, and exploitation.²⁵⁴¹ The Ministry of Gender, Child Welfare, and Community Services formulates policy on childcare and protection and relies on the Child Rights Unit and other partners to help carry out those policies.²⁵⁴² The Ministry also collaborates 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.²⁵⁴³ Street children receive assistance through the Department of Social Welfare and the Ministry of gender, Child Welfare, and Community Services.²⁵⁴⁴ The government is also carrying out a campaign to raise awareness of the UN Convention on the Rights of the Child as part of the National Program of Action for the Survival and Development of Children.²⁵⁴⁵ In 2003, the government provided teenage boys that had been sexually exploited in areas around Lake Malawi with counseling, rehabilitation and relocation assistance.²⁵⁴⁶

Selected Child Labor Measures Adopted by Governments		
Ratified Convention 138	11/19/1999	✓
Ratified Convention 182	11/19/1999	✓
ILO-IPEC Associated Member		✓
National Plan for Children		✓
National Child Labor Action Plan		✓
Sector Action Plan		

The government is 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 as well as an ILO-IPEC project to conduct child labor research.²⁵⁴⁷ The Norwegian Agency for Development Cooperation and UNICEF-Malawi is working with the government, employers, trade unions, donors and civil society to carry out child labor prevention activities.²⁵⁴⁸ Tobacco-exporting companies also support programming to combat child labor in the tobacco growing industry.²⁵⁴⁹

The government is implementing a long-term education strategy, called Vision 2020, focusing on improving access, quality and equity in primary, secondary and tertiary education, strengthening the

²⁵⁴¹ 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>.

²⁵⁴² UN Committee on the Rights of the Child, *Initial report of 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, Para 20 and 54; available from <http://www.unhcr.ch/TBS/doc.nsf/e121f32fbc58faafc1256a2a0027ba24/1e631bcfbb5f333ec1256b5a005a5c68?OpenDocument>.

²⁵⁴³ 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.

²⁵⁴⁴ The Republic of Malawi, *National Report on the Follow-Up*, para 57.

²⁵⁴⁵ UN Committee on the Rights of the Child, *Initial Report of Malawi*, CRC/C/SR.766, para. 5.

²⁵⁴⁶ U.S. Department of State, *Trafficking In Persons Report- 2004: Malawi*.

²⁵⁴⁷ The commercial agriculture project is scheduled to close in December 2004. See ILO-IPEC, *Targeting the Worst Forms of Child Labor in in Commercial Agriculture in Kenya, Malawi, Tanzania, Uganda, and Zambia*, technical progress report,, RAF/00/P51/USA, Geneva, March, 2004. The statistical project closed in June 2004. See ILO-IPEC, *Statistical Programme for Advocacy on the Elimination of Child Labour and the Protection of Working Children in Malawi*, technical progress report, MLW/01/P50/USA, Geneva, March 2004.

²⁵⁴⁸ Committee of Experts on the Application of Conventions and Recommendations, *Minimum Age Convention, 1973 (No. 138) Malawi (ratification: 1999) Observation*, 2004.

²⁵⁴⁹ Together Ensuring Children's Security is raising funds to implement projects to eliminate child labor in the tobacco industry in 60 villages in two target districts. See ECLT Foundation, *ECLT Foundation Program in Malawi with "Together Ensuring Children's Security" (TECS), 2002-2006*, [online] 2003 [cited May 26, 2004]; available from <http://www.eclt.org/filestore/TECSProgramme.pdf>. See also ILO-IPEC, *Baseline Survey Report*, 53.

science, technical, vocational and commercial components of school curriculum, improving special education, improving the performance of supporting education institutions, and developing an effective and efficient education management plan.²⁵⁵⁰ Several international organizations support the government's education efforts, including UNICEF, Save the Children-USA, UNESCO, USAID, CIDA and PLAN Malawi.²⁵⁵¹

²⁵⁵⁰ Ministry of Education, Science, and Technology, *Vision for Education*, [cited May 20, 2004]; available from <http://www.malawi.gov.mw/educ/educvis.htm>. This education strategy is intended to update and improve the Education Policy and Investment Framework developed in 1995, which outlined education policy over a ten-year period in an attempt to accommodate free primary education and other reforms. See Science and Technology Ministry of Education, *Role of Education in National Development*; available from <http://www.malawi.gov.mw/educ/educrole.htm>. See also Kadzamira and Rose, *Educational Policy Choice and Policy Practice in Malawi*, 8.

²⁵⁵¹ UNICEF, *At a glance: Malawi*, [online] 2004 [cited November 1, 2004]; available from <http://www.unicef.org/infobycountry/malawi.html>. See also Save the Children - USA, *Malawi*, October 7, 2003 [cited November 1, 2004]; available from <http://www.savethechildren.org/countries/africa/malawi.asp>. See also 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 also USAID, *Malawi: Congressional Budget Justification 2005*, [online] 2004 [cited November 1, 2004]; available from <http://www.usaid.gov/policy/budget/cbj2005/afr/mw.html>. See ILO-IPEC, *Baseline Survey Report*, 52, 53.