

South Africa

Incidence and Nature of Child Labor

The Government of South Africa estimated that 32.5 percent of children ages 5 to 14 years were working in 1999.³⁶⁶⁸ Working children are most often found in the rural agricultural sector and the urban informal economy. Children work in commercial agriculture, on subsistence farms, and on small farms planting and harvesting vegetables, picking and packing fruit, and cutting flowers.³⁶⁶⁹ Children perform domestic tasks in their own households, and work as paid domestic servants in the homes of non-family members. Children working as paid domestic servants are compensated with cash, accommodation, rations, or any combination of these.³⁶⁷⁰

In urban areas, children work as street hawkers, especially around taxi stands and near public transportation,³⁶⁷¹ and as car guards.³⁶⁷² There are reports that child prostitution is increasing.³⁶⁷³ There have been reports that some cities are becoming destinations for tourists seeking sex with minors.³⁶⁷⁴ South Africa is an origin, transit, and destination country for children trafficked for the purpose of commercial sexual exploitation and forced labor. Children are reportedly trafficked from Botswana, Angola, the Democratic Republic of Congo, Ethiopia, Malawi, Zimbabwe, Swaziland, Lesotho, Mozambique, Zambia, Russia, Ukraine, Slovakia, and Thailand.³⁶⁷⁵ Children are also trafficked from rural areas to urban areas for

³⁶⁶⁸ The survey also found that 48.7 percent of children ages 15 to 17 were working. The definition of working children includes children who work at least 3 hours per week in economic activities, 5 hours per week in school labor, and 7 hours per week for household chores. See Dr. FM Orkin, *Child Labor in South Africa: Tables, Survey of Activities of Young People 1999*, Statistics South Africa, 2000, 30, 70; available from <http://www.ilo.org/public/english/standards/ipec/simpoc/southafrica/report/indexpr.htm>. A majority of "black" children are involved in potentially hazardous forms of labor. See Bill Rau, *Combating Child Labour and HIV/AIDS in Sub-Saharan Africa*, Paper No. 1, ILO-IPEC, July 2002, 25.

³⁶⁶⁹ More children are involved in work in rural areas than in urban areas. See U.S. Consulate- Johannesburg, *unclassified telegram no. 382*, 2004. See also U.S. Consulate- Johannesburg, *unclassified telegram no. 0655*, June 2000.

³⁶⁷⁰ The ILO estimates that less than 10,000 children are estimated to perform paid domestic service that is likely to be harmful to their health or development. See Debbie Budlender and Dawie Bosch, *Child Domestic Workers: A National Report*, ILO-IPEC, Geneva, May, 2002, ix, x; available from <http://www.ilo.org/public/english/standards/ipec/simpoc/southafrica/others/domestic.pdf>. Many of these children come from migrant populations. See also U.S. Consulate- Johannesburg, *unclassified telegram no. 0655*.

³⁶⁷¹ U.S. Consulate- Johannesburg, *unclassified telegram no. 0655*.

³⁶⁷² ILO-IPEC, *HIV/AIDS and Child Labour in South Africa: A rapid assessment*, Paper No. 4, March 2003.

³⁶⁷³ ECPAT International, *South Africa*, [database online] n.d. 2004 [cited March 24, 2004]; available from http://www.ecpat.net/eng/Ecpat_inter/projects/monitoring/online_database/index.asp. See also U.S. Department of State, *Country Reports on Human Rights Practices- 2003: South Africa*, Washington, D.C., February 25, 2004, 6f; available from <http://www.state.gov/g/drl/rls/hrrpt/2003/27752.htm>. There were reports that children were forced by their parents into prostitution. See U.S. Consulate- Johannesburg, *unclassified telegram no. 382*.

³⁶⁷⁴ Swedish International Development Agency, *Looking Back, Thinking Forward: The Fourth Report on the Implementation of the Agenda for Action Adopted at the First World Congress against Commercial Sexual Exploitation of Children in Stockholm, Sweden, 28 August 1996*, ECPAT International, Bangkok, 2000, 30; available from http://www.ecpat.net/eng/Ecpat_inter/Publication/Other/English/Pdf_page/csec_4th_a4a_2000.pdf. Children are also allegedly exploited sexually in return for the liquidation of family debts or to raise income for the family. See Suchilla Leslie, *Report on the Commercial Sexual Exploitation of Children in South Africa*, South Africa National Council for Child and Family Welfare, June 9, 2000, 1, 8; available from <http://www.childwelfare.org.za/report.doc>.

³⁶⁷⁵ See U.S. Department of State, *Trafficking in Persons Report- 2004: South Africa*, Washington, D.C., June 14, 2004; available from <http://www.state.gov/g/tip/rls/tiprpt/2004/33189.htm>. See also The Protection Project, "South Africa," in *Human Rights Report*

the purpose of domestic service.³⁶⁷⁶ Children are also reportedly involved in pornography.³⁶⁷⁷ Children orphaned by HIV/AIDS and children heading households are especially vulnerable to exploitative work and find it difficult to remain in school.³⁶⁷⁸

The Constitution guarantees every child the right of access to basic education.³⁶⁷⁹ The South African Schools Act of 1996 makes school compulsory for children ages 7 to 15 and prohibits public schools from refusing admission to any child on the grounds of learning ability or race.³⁶⁸⁰ Public schools may not refuse admission to students who are unable to pay school fees.³⁶⁸¹ However, costs such as school fees, transportation, and school uniforms prevent some children from attending school. Many schools also continue to face significant infrastructure and other problems that have a negative impact on the quality of education.³⁶⁸²

Recent primary school attendance statistics are not available for South Africa. In 2001, the gross primary enrollment rate was 105.1 percent, and the net primary enrollment rate was 89.5 percent.³⁶⁸³ The gross enrollment rate was higher for boys (107.2 percent) than for girls (103.1 percent), while the net enrollment rate for both boys and girls was approximately 89 percent.³⁶⁸⁴ 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.

on *Trafficking in Persons, Especially Women and Children: A Country-by-Country Report on a Contemporary Form of Slavery*, March 2002; available from <http://209.190.246.239/ver2/cr/saf.pdf>. See also U.N. Wire, *South Africa A Hub of Child Trafficking, Study Says*, [newswire] May 11, 2004 [cited May 11 2004]; available from http://www.unwire.org/UNWire/20040511/499_23683.asp. See also UNICEF Innocenti Research Center, *Trafficking in Human Beings, Especially Women and Children, In Africa*, Florence, September 2003, 12.

³⁶⁷⁶ U.S. Consulate- Johannesburg, *unclassified telegram no. 382*.

³⁶⁷⁷ Swedish International Development Agency, *Looking Back, Thinking Forward*, 30, 31. See also Suchilla Leslie, *Report on the Commercial Sexual Exploitation of Children*, 9.

³⁶⁷⁸ School fees and harassment served as barriers to accessing education. See ILO-IPEC, *Combating Child Labour and HIV/AIDS in Sub-Saharan Africa*, Paper No. 1, July 2002, 23, 24, 26, U.S. Department of State, *Trafficking in Persons Report- 2004: South Africa*.

³⁶⁷⁹ *Constitution of the Republic of South Africa*, (December 10, 1996), Chapter 2, Section 29(1)(a); available from <http://www.concourt.gov.za/constitution/const02.html#28>.

³⁶⁸⁰ *South African Schools Act, No. 84 of 1996, (November 15, 1996), Chapter 2, Sections 3(1), 5, 6*.

³⁶⁸¹ *Ibid.*, Chapter 2, Section 5(3)(a).

³⁶⁸² U.S. Consulate- Johannesburg, *unclassified telegram no. 1245*, October 2001. See also Government of South Africa- Department of Education, *Education for All: The South African Assessment Report*, Pretoria, March 2000, 38-39. However, the 2003 plan of action focuses on the poorest 40 percent of students and seeks to remove barriers to school access in a three year span. See Government of South Africa- Department of Education, *Plan of Action: Improving access to free and quality basic education for all*, June 14, 2003, 2.

³⁶⁸³ World Bank, *World Development Indicators 2004* [CD-ROM], Washington, D.C., 2004. For a detailed 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.

³⁶⁸⁴ *Ibid.*

Child Labor Laws and Enforcement

The Basic Conditions of Employment Act sets the minimum age for employment at 15 years, and prohibits the employment of children who are under the legal minimum school leaving age of 15 years.³⁶⁸⁵ For children over age 15 and no longer subject to compulsory schooling, the Employment Act allows for the Minister of Labor to set additional prohibitions or conditions on their employment.³⁶⁸⁶ The maximum penalty for illegally employing a child, according to the Employment Act, is 3 years imprisonment.³⁶⁸⁷ The Employment Act and the Constitution prohibit all forms of forced labor.³⁶⁸⁸ The Constitution also provides for the right of every child, defined as a person under 18 years of age, to be protected from exploitative labor practices. It also prohibits children from performing work or providing services that are age-inappropriate or that put at risk a child's well being or development.³⁶⁸⁹ The Constitution also prohibits the use of children under the age of 18 in armed conflicts.³⁶⁹⁰ In July 2004, the South African Department of Labor (SADOL) passed regulations concerning the employment of children in the film, entertainment, sports, and advertising industries. Employers wishing to hire children must first apply for a license, set permissible hours, and provide schooling, transportation, and chaperone services.³⁶⁹¹

Sexual Offences Act No. 23 of 1957 establishes prostitution as a criminal offence. Children can be arrested for prostitution under the Sexual Offences Act 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 where a determination is made regarding a child's need for care and the prosecution of persons exploiting children.³⁶⁹² In 1999, the Government of South Africa amended the Child Care Act of 1983 to include a more comprehensive prohibition on the commercial sexual exploitation of children. The Child Care Act sets a penalty of up to 10 years imprisonment and/or a fine for any person who participates or is involved in the commercial exploitation of children.³⁶⁹³ In 2004, the National Assembly approved the Films and Publication Amendment Bill, which prohibits the creation, production, possession, and distribution of child pornography, as well as the failure to report it. Persons convicted of offenses related to child pornography face up to 10 years in prison.³⁶⁹⁴

³⁶⁸⁵ Republic 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.

³⁶⁸⁶ *Ibid.*, Sections 44(1), 44(2).

³⁶⁸⁷ *Ibid.*, Sections 43(1)(a)(b), 43(3), 44(2), 93.

³⁶⁸⁸ *Ibid.*, Section 48(1). In general, the Employment Act does not apply to informal work unless it constitutes forced labor. See *Constitution of the Republic of South Africa*, Chapter 2, Section 13.

³⁶⁸⁹ *Constitution of the Republic of South Africa*, Chapter 2, Sections 28(3), 28(1)(e) and (f).

³⁶⁹⁰ *Ibid.*, Chapter 2, Section 28(1)(i), 28(3).

³⁶⁹¹ U.S. Consulate- Johannesburg, *unclassified telegram no. 382*.

³⁶⁹² ILO-IPEC, *The National Child Labour Action Programme for South Africa (Draft)*, Draft 3.1, August 2003, 9. See also *Forbidden or forgiven? The legal status of sex work in South Africa*, Community Law Centre, October 1999 [cited May 20, 2004]; available from http://www.communitylawcentre.org.za/gender/gendernews1999/1999_2_sex.php#sex.

³⁶⁹³ *Child Care Amendment Act*, (1999), Section 50A.

³⁶⁹⁴ Seshoane Masitha, "New Law Enhances Children's Protection", [online], February 20, 2004, [cited May 20, 2004]; available from <http://allafrica.com/stories/200402200166.html>.

SADOL effectively enforces child labor laws in the formal non-agricultural sector but less effectively in other sectors, according to the U.S. Department of State.³⁶⁹⁵ However, there have been several successful prosecutions for violations of child labor laws over the last year.³⁶⁹⁶ There are approximately 1,000 labor inspectors nationwide, although none are specifically tasked with monitoring child labor.³⁶⁹⁷ The Child Protection Unit (CPU) and the Family Violence, Child Protection, and Sexual Offenses Unit (FCS) within the South African Police Service also oversee child protection issues. There are 28 CPUs and 14 FCSs located across the country.³⁶⁹⁸

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

SADOL chairs the Child Labor Intersectoral Group (CLIG), a national stakeholder group that coordinates services provided by the government and NGOs and raises awareness about child labor and the enforcement of child labor laws.³⁶⁹⁹ The Department of Welfare administers social safety net programs that help prevent children from entering the workforce.³⁷⁰⁰ SADOL has included modules on child labor as part of its training for labor inspectors,³⁷⁰¹ and has begun an awareness-raising program to educate farmers about the rights of children.³⁷⁰²

In collaboration with the government, ILO/IPEC is implementing a USDOL-funded regional child labor project in Southern Africa, which includes South Africa. Efforts in South

Selected Child Labor Measures Adopted by Governments		
Ratified Convention 138	3/30/2000	✓
Ratified Convention 182	6/07/2000	✓
ILO-IPEC Member		✓
National Plan for Children		✓
National Child Labor Action Plan		
Sector Action Plan (Commercial Sexual Exploitation)		✓

³⁶⁹⁵ U.S. Department of State, *Country Reports- 2003: South Africa*, Section 6d. See also U.S. Consulate- Johannesburg, *unclassified telegram no. 382*. See also U.S. Consulate- Johannesburg, *unclassified telegram no. 1245*.

³⁶⁹⁶ U.S. Consulate- Johannesburg, *unclassified telegram no. 382*.

³⁶⁹⁷ Ibid.

³⁶⁹⁸ *Child Protection Unit*, South African Society for the Prevention of Child Abuse and Neglect, December 2, 2002 [cited May 20, 2004]; available from <http://www.saspcan.org.za/childprot.htm>. See also *Establishment of the SA Police Child Protection Unit*, Crime Busters of South Africa, March 2000 [cited May 20, 2004]; available from <http://www.100megsop2.com/crimebusters/ChildAbuse.html>.

³⁶⁹⁹ There are 10 CLIG offices located in the provinces. See Fatima Bhyat, *Meeting Notes*, prepared by USDOL official, July 26, 2000. See also Government of South Africa, *Implementation of the Convention on the Rights of the Child: South Africa's Supplement to the Initial Country Report*, January 2000, 56. See also Speech at the Launch of the International Labour Organization's Third Global Report on a Future Without Child Labour, May 6, 2002; available from http://www.labour.gov.za/docs/sp/2002/may/06_mdldlana.htm.

³⁷⁰⁰ South Africa Department of Social Services and Population Development, "Discussion Document in Relation to Child Labor in South Africa," in *Network Against Child Labour (NACL): Background (Documents to be discussed at the Meeting of 17 January 2000)* Johannesburg, 2000, 5-6.

³⁷⁰¹ See Mdladlana Statement: Launch of the International Labour Organization's Third Global Report, 2002.

³⁷⁰² U.S. Consulate- Johannesburg, *unclassified telegram no. 382*.

Africa are focused on supporting the Government of South Africa's CLAP framework.³⁷⁰³ The American Institutes for Research was awarded a USD 9 million grant in August 2004 to implement a regional Child Labor Education Initiative project in Southern Africa, and will work in collaboration with the Government of South Africa.³⁷⁰⁴

The government is implementing the National Program of Action for Children (NPA). The NPA aims to advance the best interests of children, promote the realization of children's rights, and mobilize resources to address children's issues. The Office of the Rights of Children (also known as the Office on the Status of Children) in the Presidency coordinates the NPA and is also responsible for coordinating all policies concerning child welfare and child related programs.³⁷⁰⁵ The Department of Social Development provides social grants to children and their caregivers to help provide for basic necessities.³⁷⁰⁶ The government provides up to 4.6 million students with school meals.³⁷⁰⁷

The government provided training courses for the police and judiciary on the commercial sexual exploitation of children, and has deployed a special Anti-Trafficking Unit at the Johannesburg airport.³⁷⁰⁸ South Africa's National Prosecuting Agency co-sponsored a three-day conference on human trafficking in June³⁷⁰⁹ and has formed an interagency task force that drafted a national plan on trafficking.³⁷¹⁰ UNICEF also supports activities aimed at improving equitable access to quality primary education, strengthening early childhood development, and protecting children's rights.³⁷¹¹ The government has sought to address issues of inequity in its educational system by allocating more resources to the most deprived schools in its

³⁷⁰³ Activities include awareness-raising, enhancing capacity for policy implementation and monitoring, and piloting direct action programs. See 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*, September 30, 2003, 30.

³⁷⁰⁴ The AIR project aims to improve quality and access to basic and vocational education for children who are working or are at risk of working in the worst forms of child labor. *Notice of Award: Cooperative Agreement*, U.S. Department of Labor / American Institutes for Research, Washington D.C., August 16, 2004, 1,2.

³⁷⁰⁵ Office of the President, Improvement of the Life and Status of Women, Children, Youth and the Disabled: Joint Committee Meeting, June 13, 2003; available from <http://www.pmg.org.za/docs/2003/viewminute.php?id=2914>. See also Statement: United Nations General Assembly Special Session on Children, May 8, 2002; available from <http://www.gcis.gov.za/media/minister/020508.htm>. See also *National Programme of Action: 2000 and Beyond*, Office of the Rights of the Child, [website] 2004 [cited May 19, 2004]; available from <http://www.children.gov.za/About.html>.

³⁷⁰⁶ *Over 3 million child support grants*, BuaNews, July 24, 2003 [cited May 19, 2004]; available from http://www.southafrica.info/ess_info/sa_glance/social_delivery/childgrants-210703.htm. See also Department of Social Development, *You and Your Grants 2003*, [website] November 11, 2003 [cited May 19, 2004]; available from <http://www.welfare.gov.za/Services/serv01.htm>.

³⁷⁰⁷ UN Integrated Regional Information Network, "UN Integrated Regional Information Network," July 2, 2004; available from http://www.irinnews.org/report.asp?ReportID=41983&SelectRegion=Southern_Africa&SelectCountry=SOUTH_AFRICA.

³⁷⁰⁸ U.S. Department of State, *Country Reports- 2003: South Africa*, Section 6f.

³⁷⁰⁹ U.N. Wire, *Conference on Human Trafficking Opens in South Africa*, June 23, 2004 [cited June 23, 2004]; available from http://www.unwire.org/UNWire/20040623/449_25178.asp.

³⁷¹⁰ U.S. Department of State, *Trafficking in Persons Report- 2004: South Africa*.

³⁷¹¹ UNICEF, *At a glance: South Africa*, UNICEF, 2004 [cited August 25, 2004]; available from <http://www.unicef.org/infobycountry/southafrica.html>.

provinces and to predominantly black schools.³⁷¹² The Department of Education is implementing an action plan to improve access to free and quality basic education for the most disadvantaged learners.³⁷¹³ The Curriculum 2005, an educational reform program,³⁷¹⁴ is providing learning materials to schools in a more equitable fashion and standardizing the content of training courses for teachers in all districts.³⁷¹⁵

³⁷¹² See U.S. Department of State, *Country Reports- 2003: South Africa*, Section 5. See also Government of South Africa- Department of Education, *Plan of Action: Improving access to free and quality basic education for all*, Foreword. See also Government of South Africa- Department of Education, *Education for All: South Africa*, 26, 27, 32.

³⁷¹³ Government of South Africa- Department of Education, *Plan of Action: Improving access to free and quality basic education for all*, Foreword.

³⁷¹⁴ *Report of the Review Committee on Curriculum 2005*, Review Committee on Curriculum 2005, Pretoria, May 31, 2000; available from http://education.pwv.gov.za/Policies%20and%20Reports/2000_Reports/2005/Chisholm_2005.htm.

³⁷¹⁵ Government of South Africa, *Implementation of the Convention on the Rights of the Child*, 45.