

South Africa

The Government enacted new regulations concerning hazardous child labor and established a national child labor coordinating mechanism. Children continue to work in agriculture. The Government's child social protection system has limited resources to assist children engaged in and vulnerable to the worst forms of child labor.



Statistics on Working Children and School Attendance

Children	Percent
Working	Unavailable
Attending School	Unavailable
Combining Work and School	Unavailable

Prevalence and Sectoral Distribution of the Worst Forms of Child Labor

Some children in South Africa are exploited in the worst forms of child labor,⁴⁵⁶⁷ many in agriculture.⁴⁵⁶⁸ Children's work in agriculture can involve long hours, dangerous tools, physically arduous tasks, and exposure to pesticides.⁴⁵⁶⁹ Child labor is found more frequently in the informal economy.⁴⁵⁷⁰ Children are also employed as domestic servants, in many cases working long hours and isolated in homes where they are susceptible to abuse and sexual harassment.⁴⁵⁷¹ Children are employed in taverns and liquor stores to clean, stock supplies, prepare food, and serve alcohol, work which can increase their access to alcohol, and put them at risk of physical and sexual abuse from adults.⁴⁵⁷² Children in South Africa also scavenge in landfills and dumpsites for recyclable materials.⁴⁵⁷³ This work involves long hours and carrying heavy loads in the midst of dangerous machinery, moving vehicles, and burning toxins.⁴⁵⁷⁴ Children in rural areas often spend hours each day fetching water for their families, and hauling heavy loads over long distances.⁴⁵⁷⁵

Some children in South Africa are exploited in prostitution.⁴⁵⁷⁶ Some children are also forced by adults to commit robberies, including armed robbery,

and sell drugs.⁴⁵⁷⁷ Criminal gangs have compelled children to search abandoned mines for gold.⁴⁵⁷⁸

South Africa remains a country of origin, transit, and destination for children trafficked for sexual exploitation and forced labor.⁴⁵⁷⁹ Children from Lesotho, Malawi, Mozambique, Swaziland, Thailand, and China are trafficked to South Africa for prostitution.⁴⁵⁸⁰ Children from Mozambique, Malawi, and Zimbabwe are trafficked to South Africa for agricultural work.⁴⁵⁸¹ South African girls are also trafficked internally and out of the country for prostitution and domestic service.⁴⁵⁸² South African boys are trafficked internally for farm work and street vending.⁴⁵⁸³

Laws and Regulations on the Worst Forms of Child Labor

According to the Basic Conditions of Employment Act 75 of 1999 (BCEA), the minimum age for work is 15 and the minimum age for hazardous work is 18.⁴⁵⁸⁴ Employers may hire children under the age of 15 to work in the performing arts with permission from the South African Department of Labor (SADOL).⁴⁵⁸⁵ In January 2010, SADOL published new regulations containing a list of exploitive [hazardous] activities that are prohibited for children under 18.⁴⁵⁸⁶ These

activities include the production and sale of alcohol, mining, scavenging in garbage dumps, and exposure to hazardous substances.⁴⁵⁸⁷ The regulations prohibit the employment of children in work that takes place in cold, hot, or noisy environments; involves respiratory hazards, elevated spaces, the lifting of heavy objects, or piecework; or interferes with a child's access to nutrition, health care, or education.⁴⁵⁸⁸ The regulations also provide guidelines for the employment of children in work that requires overnight separation from parents or guardians.⁴⁵⁸⁹

The Children's Amendment Act prohibits the use of children for slavery, slave-like practices, trafficking, commercial sexual exploitation, and illicit activities.⁴⁵⁹⁰ The act was signed into law by President Thabo Mbeki in March 2008 and was officially implemented on April 1, 2010.⁴⁵⁹¹ The Criminal Law Amendment Act 32 of 2007 defines and criminalizes human trafficking for sexual exploitation.⁴⁵⁹²

	C138, Minimum Age	✓
	C182, Worst Forms of Child Labor	✓
	CRC	✓
	CRC Optional Protocol on Armed Conflict	✓
	CRC Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography	✓
	Palermo Protocol on Trafficking in Persons	✓
	Minimum Age for Work	15
	Minimum Age for Hazardous Work	18
	Compulsory Education Age	15
	Free Public Education	No

On May 7, 2009, the President signed into law the Child Justice Act No. 75 of 2008.⁴⁵⁹³ This act was implemented on April 1, 2010.⁴⁵⁹⁴ The Act allows for the diversion of child offenders from the formal criminal justice system to alternative forms of justice such as victim-offender mediation and family councils.⁴⁵⁹⁵ It calls for the creation of one-stop child justice centers and for the prosecution of adults who

use children for illicit activities.⁴⁵⁹⁶ When an adult has compelled a child to commit a crime, the Child Justice Act requires court officials to consider this when determining the child's placement in the justice system.⁴⁵⁹⁷

In September 2009, the Government of South Africa ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.⁴⁵⁹⁸

Institutional Mechanisms for Coordination and Enforcement

The Government established the Intersectoral Committee on Child Labor in 2009 to coordinate efforts to combat the worst forms of child labor. The committee is chaired by SADOL and members include representatives from commercial agriculture, trade unions, government, and SAPS.⁴⁵⁹⁹ In 2009, the committee met in March, August, and November.⁴⁶⁰⁰

SADOL and SADOJ are responsible for enforcing child labor laws.⁴⁶⁰¹ SADOL inspectors identify suspected cases of child labor and human trafficking and forward evidence to SADOJ for follow-up.⁴⁶⁰² Depending on the type of offense, child labor violations are tried in either a criminal or labor court.⁴⁶⁰³ SADOL and SADOJ do not report statistics on the number of child labor cases opened, closed, or resolved, or the number of convictions made.⁴⁶⁰⁴ SADOL publishes statistics on the number of inspections conducted and the number of labor complaints received and addressed, but it does not disaggregate its data by child labor violations.⁴⁶⁰⁵ According to the Government, SADOL inspectors have difficulty accessing farms to assess compliance with national labor laws, including prohibitions against child labor.⁴⁶⁰⁶ Although they have legal authority, inspectors frequently do not enter farms without an invitation because they are afraid that farmers will treat them as intruders given the high rate of violent crimes against commercial farmers.⁴⁶⁰⁷

The National Prosecution Authority (NPA) prosecutes human trafficking cases.⁴⁶⁰⁸ The Sexual Offenses and Community Affairs Unit (SOCA) within NPA leads a Trafficking in Persons Task Team, which is composed of the Departments of Labor, Home Affairs, Justice, and Social Development, and other representatives of national law enforcement.⁴⁶⁰⁹ The goals of the team include developing a national strategy against

human trafficking for sexual exploitation; promoting interagency collaboration; preparing operating procedures for new trafficking legislation; and organizing training on human trafficking issues.⁴⁶¹⁰ The Human Trafficking Desk within SAPS seeks to monitor and evaluate efforts to investigate trafficking crimes; trains human trafficking investigators; and refers human trafficking cases to provincial SAPS units.⁴⁶¹¹ Despite these efforts, the Government reports that it does not gather systematic data on human trafficking cases and that prosecutors and investigators lack sufficient training on how to identify human trafficking situations.⁴⁶¹²

Government Policies on the Worst Forms of Child Labor

The National Child Labor Program of Action for South Africa, Phase II, 2008-2012 (CLPA) is the Government's primary policy instrument to prevent and eliminate child labor in South Africa.⁴⁶¹³ It calls for activities across the Government and the promotion of new laws against the worst forms of child labor.⁴⁶¹⁴ It also includes a list of indicators to monitor the Government's efforts against child labor.⁴⁶¹⁵

Social Programs to Eliminate or Prevent the Worst Forms of Child Labor

From 1998 to 2003, the Government collaborated with ILO-IPEC to collect child labor statistics, and from 2000 to 2003, collaborated with ILO-IPEC on a detailed analysis of the country's child labor policies.⁴⁶¹⁶ The Government participated in a regional child labor project from 2004 to 2008 funded by USDOL. This 4-year, \$9 million project increased educational opportunities for vulnerable children, piloted a scholarship program for working children, and reviewed South Africa's trafficking legislation.⁴⁶¹⁷ Over its lifetime, the project rescued 11,127 children from the worst forms of child labor in five countries, including South Africa.⁴⁶¹⁸ The Government also participated in a 4.5-year, \$5 million, regional project

funded by USDOL that conducted research on the extent of child labor in specific sectors, drafted a monitoring plan for the Government's Child Labor Plan of Action, and protected 5,421 children from exploitive labor.⁴⁶¹⁹

In 2009, the Government participated in a \$4.75 million regional project funded by USDOL in three countries, including South Africa. In South Africa, the project conducts awareness campaigns on child labor; assists SADOL with technical support in implementing CLPA; and targets 4,200 children for withdrawal and prevention from the worst forms of child labor, including hazardous work in agriculture.⁴⁶²⁰

During the reporting period, the Government of South Africa promoted social programs that impact the worst forms of child labor. The Government provided direct cash transfers to the households of vulnerable children to alleviate poverty.⁴⁶²¹ The Government implemented a no-fee school program that covers the poorest 40 percent of primary schools.⁴⁶²² EU, ILO, and IOM funded anti-trafficking planning and awareness-raising activities; and the Government-operated *Thuthuzela* Care Centers that provide medical services, counseling, and legal support to victims of sexual exploitation.⁴⁶²³

The Government has identified constraints on its capacity to offer social protection for children. For example, birth certificates are required to qualify for services, yet more than 20 percent of babies are not registered by their first birthday.⁴⁶²⁴ Also, the child protection system lacks the financial resources and skilled staff to assist the majority of children who need care.⁴⁶²⁵

Based on the reporting above, the following actions would advance the reduction of the worst forms of child labor in South Africa:

IN THE AREA OF COORDINATION AND ENFORCEMENT:

- Report on the number of child labor cases opened, closed, and resolved and the number of convictions.
- Provide sufficient training and systems for law enforcement personnel to identify worst forms of child labor, including human trafficking cases.
- Establish and enforce appropriate procedures to allow for labor inspections in all regulated areas.
- Collect systematic data on human trafficking cases.

IN THE AREA OF POLICIES:

- Make education freely available to all children.

IN THE AREA OF PROGRAMS:

- Implement programs to ensure that all children have birth certificates.
- Allocate resources to better support children in the social protection system.

⁴⁵⁶⁷ Data provided in the chart at the beginning of this country report are not available from the data sources that are used by USDOL. Reliable data on the worst forms of child labor are especially difficult to collect given the often hidden or illegal nature of the worst forms. For more information on sources used for these statistics, the definition of working children, and other indicators used in this report, please see the “Children’s Work and Education Statistics: Sources and Definitions” section.

⁴⁵⁶⁸ Government of South Africa, *The Child Labour Programme of Action for South Africa Phase 2 (2008-2012)*, Draft 4.4, Pretoria, June 2007, 15, 17. See also Judith Streak, “Harvesting Childhood: Causes, nature, and impact of child agricultural labour,” *HSRC Review* vol. 5, no. 3 (September 2007); available from http://www.hsrc.ac.za/HSRC_Review_Article-61.phtml.

⁴⁵⁶⁹ Social Surveys Africa, *Report on Conceptualization of Research into Child Labour in Commercial Agricultural in South Africa*, Pretoria, April 7, 2006, 19-29, 23, 39-40. See also Government of South Africa, *Child Labour Programme of Action: Phase 2*, 62-63.

⁴⁵⁷⁰ U.S. Embassy- Pretoria official, E-mail communication to USDOL official, October 28, 2010.

⁴⁵⁷¹ Government of South Africa, *Child Labour Programme of Action: Phase 2*, 59.

⁴⁵⁷² Andrew Charman, *A rapid assessment of children making and selling liquor in South Africa*, ILO-IPEC, Pretoria, August, 2006, 8-10.

⁴⁵⁷³ Saranel Benjamin, *A rapid assessment on scavenging and waste recycling work by children in South Africa*, ILO-IPEC, Pretoria, October, 2007, 7-9.

⁴⁵⁷⁴ *Ibid.*, 11.

⁴⁵⁷⁵ David Hemson, *Young drawers of water: The burden on children in rural South Africa*, TECL Paper 39, Government of South Africa and ILO-IPEC, Pretoria, July 2006, 1, 2, 4, 8; available from http://www.ilo.org/ipecinfo/product/viewProduct.do?sessionId=0a038009cef56a88a5b927f48058ae6be8ee22b5c19.hkzFngTDp6WImQuUaNaLahD3IN4K-xalah8S-xyIn3uKmAiN-AnwbQbxaNvzaAml-huKa30xgx95fjWTa3elpkzFngTDp6WImQuXah8LaN8Qc3yOa2b48OX3b4Dtj15eMbyknvrkLOIQzNp65In0__?productId=4211.

⁴⁵⁷⁶ U.S. Department of State, “South Africa (Tier 2),” in *Trafficking in Persons Report- 2010*, Washington, DC, June 14, 2010; available from <http://www.state.gov/g/tip/rls/tiprpt/2010/142761.htm>. See also Government of South Africa, *Tsireledzani: Understanding the Dimensions of Human Trafficking in Southern Africa*, March 2010, 123; available from <http://www.hsrc.ac.za/index.php?module=pagesetter&tid=8&filter1=bibtittle^like^trafficking&filter2=abstract^like^trafficking>. See also Government of South Africa, *Child Labour Programme of Action: Phase 2*, 18.

⁴⁵⁷⁷ University of Western Cape, *Children Used by Adults to Commit Crime: Childrens’ Perception of the their Use by Adults in the Commission of Offences*, ILO-IPEC and the Inter-Sectoral Committee on Child Justice, 2006, 14-17; available from <http://www.ilo.org/ipecinfo/product/viewProduct.do?productId=4485>. See also Government of South Africa, *Child Labour Programme of Action: Phase 2*, 18.

- ⁴⁵⁷⁸ U.S. Department of State, “Trafficking in Persons Report- 2010: South Africa.”
- ⁴⁵⁷⁹ U.S. Consulate-Johannesburg, *reporting*, February 2, 2010, para 6. See also UNESCO, *Human Trafficking in South Africa: Root Causes and Recommendations*, Paris, 2007, 18-19; available from <http://unesdoc.unesco.org/images/0015/001528/152823E.pdf>.
- ⁴⁵⁸⁰ UNESCO, *Human Trafficking in South Africa*, 20-22. See also U.S. Department of State, “Trafficking in Persons Report- 2010: South Africa.” See also Government of South Africa, *Understanding the Dimensions of Human Trafficking*, 150.
- ⁴⁵⁸¹ U.S. Department of State, “South Africa,” in *Country Reports on Human Rights Practices- 2009*, Washington, DC, March 11, 2010, section 6; available from <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135977.htm>.
- ⁴⁵⁸² Laura Gauer Bermudez, “No Experience Necessary”: *The Internal Trafficking of Presons in South Africa*, IOM, Pretoria, October 2008, 34, 41, 46, 47, 49. See also U.S. Department of State, “Country Reports- 2009: South Africa,” section 6.
- ⁴⁵⁸³ Laura Gauer Bermudez, *No Experience Necessary*, 53, 56-58. See also U.S. Department of State, “Country Reports- 2009: South Africa,” section 6.
- ⁴⁵⁸⁴ Government of South Africa, *Basic Conditions of Employment Act 75 of 1997*, (December 5, 1997), article 43(1)(2); available from <http://www.info.gov.za/view/DownloadFileAction?id=70820>.
- ⁴⁵⁸⁵ South African Department of Labour, *Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities*, 2004, sections 2(1) and 2(6); available from <http://www.labour.gov.za/legislation/sectoral-determinations/sectoral-determination-10-children-in-the-performance-of-advertising-artistic-and-cultural-activities>.
- ⁴⁵⁸⁶ Government of South Africa, *Basic Conditions of Employment Act (75 of 1997): Regulations on Hazardous Work by Children in South Africa, No. 32862*, (January 15, 2010), 21, 35, and 39-40; available from <http://www.hsrc.ac.za/index.php?module=pagesetter&tid=8&filter1=bibtittle^like^trafficking&filter2=abstract^like^trafficking>.
- ⁴⁵⁸⁷ *Ibid.*
- ⁴⁵⁸⁸ *Ibid.*, 36-37 and 42-43.
- ⁴⁵⁸⁹ *Ibid.*, 37.
- ⁴⁵⁹⁰ Government of South Africa, *The Children’s Amendment Act of 2007*, (March 2008), 2, article 141(a-e); available from <http://www.info.gov.za/view/DownloadFileAction?id=86458>.
- ⁴⁵⁹¹ U.S. Embassy- Pretoria official, E-mail communication, October 28, 2010.
- ⁴⁵⁹² Government of South Africa, *Understanding the Dimensions of Human Trafficking*, 41.
- ⁴⁵⁹³ Government of South Africa, *Child Justice Act, No. 75 of 2008*, (May 7, 2009), 2; available from <http://www.childjustice.org.za/default.htm>.
- ⁴⁵⁹⁴ U.S. Embassy- Pretoria official, E-mail communication, October 28, 2010.
- ⁴⁵⁹⁵ Government of South Africa, *Child Justice Act*, articles 51(1a), 61(1a), and 62(1a).
- ⁴⁵⁹⁶ *Ibid.*, articles 89(1) and 92.
- ⁴⁵⁹⁷ *Ibid.*, article 92.
- ⁴⁵⁹⁸ OHCHR, *11.b. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 25 May 2000*, [online] [cited August 10, 2010]; available from http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&lang=en.
- ⁴⁵⁹⁹ U.S. Consulate-Johannesburg, *reporting, February 2, 2010*. See also U.S. Consulate-Johannesburg, *reporting, December 18, 2009*, para 3.
- ⁴⁶⁰⁰ U.S. Consulate-Johannesburg, *reporting, February 2, 2010*, para 14.
- ⁴⁶⁰¹ *Ibid.*, paras 17 and 18.
- ⁴⁶⁰² *Ibid.*, para 17.
- ⁴⁶⁰³ *Ibid.*, para 15.
- ⁴⁶⁰⁴ *Ibid.*, para 17.
- ⁴⁶⁰⁵ Government of South Africa, *Annual Report of the Department of Labour; 1 April 2009 to 31 March 2010*, Pretoria, 2010, 46-47; available from <http://www.labour.gov.za/documents/annual-reports/annual-reports>.
- ⁴⁶⁰⁶ Government of South Africa, *Child Labour Programme of Action: Phase 2*, 61.
- ⁴⁶⁰⁷ *Ibid.*
- ⁴⁶⁰⁸ South African Law Reform Commission, *South African Law Reform Commission Project 131: Trafficking in Persons*, Pretoria, August 2008, para 1.11; available from <http://www.justice.gov.za/salrc/reports.htm>.
- ⁴⁶⁰⁹ UNESCO, *Human Trafficking in South Africa*, 48-49.
- ⁴⁶¹⁰ South African Law Reform Commission, *South African Law Reform Commission Project 131*, para 1.12. See also U.S. Embassy-Pretoria, *reporting, February 11, 2010*, para 8b.
- ⁴⁶¹¹ South African Law Reform Commission, *South African Law Reform Commission Project 131*, para 1.10.
- ⁴⁶¹² Government of South Africa, *Understanding the Dimensions of Human Trafficking*, paras 11.2 and 3.9.2.4. See also U.S. Department of State, “Trafficking in Persons Report- 2010: South Africa.”

⁴⁶¹³ ILO-IPEC, *Towards the Elimination of the Worst Forms of Child Labor (TECL), Phase II*, Project Document, Geneva, September 25, 2008, 36-37.

⁴⁶¹⁴ Government of South Africa, *Child Labour Programme of Action: Phase 2*, 4. See also U.S. Consulate-Johannesburg, *reporting, February 2, 2010*.

⁴⁶¹⁵ Government of South Africa, *Child Labour Programme of Action: Phase 2*, 95-102.

⁴⁶¹⁶ U.S. Department of Labor, *Technical Cooperation Project Summary: Development of a National Program of Action to Eradicate Child Labor in South Africa*, accessed August 11, 2010; available from http://www.dol.gov/ilab/map/countries/south_africa.htm. See also U.S. Department of Labor, *Technical Cooperation Project Summary: Reporting on the State of the Nation's Children: A Statistical Program for Advocacy on the Elimination of Child Labor and the Protection of Working Children in the Republic of South Africa*, accessed August 11, 2010; available from http://www.dol.gov/ilab/map/countries/south_africa.htm.

⁴⁶¹⁷ U.S. Department of Labor, *Technical Cooperation Project Summary: Reducing Exploitive Child Labor Through Education in Southern Africa (Botswana, Lesotho, Namibia, South Africa, and Swaziland)*, accessed August 11, 2010; available from http://www.dol.gov/ilab/map/countries/south_africa.htm.

⁴⁶¹⁸ *Ibid.*

⁴⁶¹⁹ U.S. Department of Labor, *Technical Cooperation Project Summary: Supporting the Timebound Program to Eliminate the Worst Forms of Child Labor in South Africa, and laying the Basis for Concerted Action Against the Worst Forms of Child Labor in Botswana, Lesotho, Namibia, and Swaziland*, accessed August 11, 2010; available from http://www.dol.gov/ilab/map/countries/south_africa.htm.

⁴⁶²⁰ U.S. Department of Labor, *Technical Cooperation Project Summary: Towards the Elimination of the Worst Forms of Child Labor (TECL), Phase II*, accessed August 11, 2010; available from http://www.dol.gov/ilab/map/countries/south_africa.htm.

⁴⁶²¹ Government of South Africa, *Situation Analysis of Children in South Africa*, April 2009, 17; available from www.thepresidency.gov.za/docs/pcsa/gdch/situation-analysis.pdf. See also U.S. Consulate-Johannesburg, *reporting, February 2, 2010*, para 61.

⁴⁶²² Government of South Africa, *Situation Analysis of Children*, 73.

⁴⁶²³ IOM, *EYE on Human Trafficking*, Pretoria, February 22, 2010, 5; available from <http://iom.org.za/site/>. See also Government of South Africa, *Understanding the Dimensions of Human Trafficking*, ii. See also South African Law Reform Commission, *South African Law Reform Commission Project 131*, paras 1.12 and 1.16.

⁴⁶²⁴ Government of South Africa, *Situation Analysis of Children*, 99.

⁴⁶²⁵ *Ibid.*, 101.