

South Africa

The Government of South Africa implemented the Children's Amendment Act and the Child Justice Act and enacted new regulations concerning hazardous child labor. However, children continue to work in agriculture and domestic service. Resource constraints for social programs remain an impediment to the Government's efforts to assist children engaged in and vulnerable to the worst forms of child labor.

Statistics on Working Children and School Attendance

Children	Age	Percent
Working	5-14 yrs.	Unavailable
Attending School	5-14 yrs.	Unavailable
Combining Work and School	7-14 yrs.	Unavailable



Prevalence and Sectoral Distribution of the Worst Forms of Child Labor

Some children in South Africa are engaged in the worst forms of child labor,⁵²⁹⁶ many in agriculture and domestic service.⁵²⁹⁷ Children's work in agriculture can involve working long hours, using dangerous tools and performing physically arduous tasks, as well as exposure to pesticides.⁵²⁹⁸ Evidence suggests that children are involved in forestry and in the harvesting of bananas, citrus fruits, grapes, litchi, mango and sugarcane.⁵²⁹⁹ Children, especially boys, reportedly care for livestock.⁵³⁰⁰

In many cases, children employed as domestic servants, in many cases, work long hours and isolated in homes where they are susceptible to abuse and sexual harassment.⁵³⁰¹ 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.⁵³⁰² Children in South Africa also scavenge in landfills and dumpsites for recyclable materials.⁵³⁰³ This work involves working long

hours and carrying heavy loads in the midst of dangerous machinery, moving vehicles and burning toxins.⁵³⁰⁴ Children in rural areas often spend hours each day fetching water for their families and hauling heavy loads over long distances.⁵³⁰⁵

Some children in South Africa are exploited in prostitution.⁵³⁰⁶ Children are also forced by adults to commit crimes.⁵³⁰⁷ Criminal gangs have compelled children to search abandoned mines for gold.⁵³⁰⁸

South Africa remains a country of origin, transit, and destination for children trafficked for the purposes of sexual exploitation and forced labor.⁵³⁰⁹ Children from China, Lesotho, Malawi, Mozambique, Swaziland and Thailand are trafficked to South Africa for commercial sexual exploitation.⁵³¹⁰ Children from Malawi, Mozambique and Zimbabwe are trafficked to South Africa for agricultural work.⁵³¹¹ South African girls are also trafficked internally and internationally for prostitution and domestic service.⁵³¹² South African boys are trafficked internally for farm work and street vending.⁵³¹³

Laws and Regulations on the Worst Forms of Child Labor

According to the Basic Conditions of Employment Act 75 of 1999, the minimum age for work is 15 and the minimum age for hazardous work is 18.⁵³¹⁴ Employers may hire children younger than age of 15 to work in the performing arts with permission from the South African Department of Labor (SADOL).⁵³¹⁵ In January 2010, SADOL published new regulations containing a list of hazardous activities that are prohibited for children younger than age 18.⁵³¹⁶ These activities include the production and sale of alcohol, mining, scavenging in garbage dumps and exposure to hazardous substances.⁵³¹⁷ The regulations prohibit the employment of children in work that takes place in cold, hot or noisy environments; involves respiratory hazards, elevated spaces, lifting of heavy objects; or interferes with a child's access to nutrition, health care, or education.⁵³¹⁸ The regulations also provide guidelines for the employment of children in work that requires overnight separation from their parents or guardians.⁵³¹⁹

	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

The Children's Amendment Act prohibits the use of children for slavery, slave-like practices, trafficking, commercial sexual exploitation, and illicit activities.⁵³²⁰ The act was officially implemented on April 1, 2010.⁵³²¹ The Criminal Law Amendment Act 32 of 2007 defines and criminalizes human trafficking for sexual exploitation.⁵³²² Despite these provisions, the Government does not have a national anti-trafficking law.⁵³²³

The Defense Act 42 of 2002 establishes age 18 as the minimum age for voluntary military service, military training and conscription, even in times of national emergency.⁵³²⁴

The Child Justice Act No. 75 of 2008 was implemented on April 1, 2010.⁵³²⁵ 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.⁵³²⁶ It calls for the creation of one-stop child justice centers and for the prosecution of adults who use children for illicit activities.⁵³²⁷ The Child Justice Act requires court officials to consider whether an adult has compelled a child to commit a crime when determining the child's placement in the justice system.⁵³²⁸

Public education is free and compulsory under the 1994 South African Schools Act. However, families are required to pay local school fees as well as fees for books, uniforms, and other school-related expenses.⁵³²⁹ Despite the law, the Government has only declared 55 percent of schools to be "no fee."⁵³³⁰ School fees vary depending on the municipality and region.⁵³³¹

Institutional Mechanisms for Coordination and Enforcement

The Intersectoral Committee on Child Labor coordinates 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 agencies and the South African Police Service

(SAPS).⁵³³² In 2010, the committee was scheduled to meet in April, July and September.⁵³³³

SADOL and the South African Department of Justice (SADOL) are responsible for enforcing child labor laws.⁵³³⁴ SADOL inspectors identify suspected cases of child labor and human trafficking and forward evidence to SADOL for follow-up.⁵³³⁵ Depending on the type of offense, child labor violations are tried in either a criminal or labor court.⁵³³⁶ SADOL and SADOL do not make statistics publicly available on the number of child labor cases opened, closed or resolved or the number of convictions made.⁵³³⁷ SADOL does publish 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.⁵³³⁸ According to the Government, SADOL inspectors have difficulty accessing farms to assess compliance with national labor laws, including prohibitions against child labor.⁵³³⁹ 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 potentially exposing them to safety risks.⁵³⁴⁰

The National Prosecution Authority (NPA) prosecutes human trafficking cases.⁵³⁴¹ The Sexual Offenses and Community Affairs Unit within NPA leads a Trafficking in Persons Task Team, which is composed of the Departments of Labor, Home Affairs, Justice and Social Development as well as and other representatives of national law enforcement.⁵³⁴² Among the goals of the team is the development of a national strategy against human trafficking for sexual exploitation.⁵³⁴³ 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.⁵³⁴⁴ During the reporting period, the police, social workers, prosecutors, immigration officials, and other government officials were trained on human trafficking and child labor issues as part of preparation for the

FIFA World Cup.⁵³⁴⁵ 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.⁵³⁴⁶

There is no data on the number of children engaged in the worst forms of child labor.⁵³⁴⁷

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.⁵³⁴⁸ It calls for activities across the Government and the promotion of new laws against the worst forms of child labor.⁵³⁴⁹ It also includes a list of indicators to monitor the Government's efforts against child labor.⁵³⁵⁰

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

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.⁵³⁵¹ The Government also implemented a no-fee school program that covers the poorest primary schools.⁵³⁵² The South African Department of Foreign Affairs, in partnership with IOM, supports and develops the capacity of the Government and civil society groups to deal with the problem of trafficking.⁵³⁵³ The NPA implements the South African Government-European Union co-funded Programme of Assistance to the South African Government to Prevent, React to Human Trafficking and Provide Support to Victims of Crime, part of the Government's National Strategy to Combat Human Trafficking through prevention, response and support for victims.⁵³⁵⁴ The Government also

operates *Thuthuzela* Care Centers that provide medical services, counseling and legal support to victims of sexual exploitation.⁵³⁵⁵

The Government of South Africa provides funding to an NGO operated hotline, which refers reports of child labor violations to government protection agencies or the police.⁵³⁵⁶

The Government participates in a 4-year, \$4.75 million regional project funded by USDOL and implemented by ILO-IPEC 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 dangerous work in agriculture.⁵³⁵⁷ The project has developed procedures to help police and justice officials recognize and prosecute adults who exploit child offenders; created strategies to reduce the use of child labor in fetching water; and conducted a

study on children involved in scavenging landfills and dumpsites.⁵³⁵⁸ The project also supported the development of a child labor code of conduct for the tourist industry.⁵³⁵⁹

The Government of South Africa funds grant programs, including child care dependency grants, child support grants and foster care grants, which help children and their families, including those vulnerable to the worst forms of child labor by encouraging them to remain in school and not enter the labor market. During the reporting period, the age of eligible grant recipients increased to 17.⁵³⁶⁰

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.⁵³⁶¹ Also, the child protection system lacks the skilled staff to assist the majority of children who need care.⁵³⁶²

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 LAW:

- Pass comprehensive anti-trafficking in persons legislation.

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 the 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 the number of child laborers and on the worst forms of child labor.

IN THE AREA OF POLICY:

- Ensure that education is freely available to all children.

IN THE AREA OF SOCIAL PROGRAMS:

- Institute programs to address the worst forms of child labor in agriculture and domestic service.
- Implement programs to ensure that all children have birth certificates.
- Allocate resources to better support children in the social protection system.

⁵²⁹⁶ Data provided in the chart at the beginning of this country report are not available from the data sources that are used in this report. 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.

⁵²⁹⁷ Government of South Africa, *The National Child Labour Programme of Action for South Africa, Phase 2: 2008-2012, Draft 4.4*, Pretoria, June 2007, 15, 59. 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.

⁵²⁹⁸ 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, *The Child Labour Programme of Action for South Africa Phase 2 (2008-2012), Draft 4.4*, Pretoria, June 2007, 62-63. See also H. A. Rother, “Falling through the Regulatory Cracks: Street selling of Pesticides and Poisoning among Urban Youth in South Africa,” *International Journal of Occupational and Environmental Health* 16, no. 2 (2010), 202.

⁵²⁹⁹ Judith Streak, Andrew Dawes, Deborah Ewing, Susan Levine, Sharmla Rama, and Lameez Alexander, “The causes, nature and impact of child work and labour in South Africa: A study of three purposively selected sites (Final Report),” *HSRC* (2007); available from http://www.hsrc.ac.za/research/output/outputDocuments/4835_Sreak_Causesnatureandimpactofchildlabour.pdf.

⁵³⁰⁰ *Ibid.*, 38, 53, 65.

⁵³⁰¹ Government of South Africa, *Child Labour Programme of Action: Phase 2*, 59.

⁵³⁰² Andrew Charman, *A rapid assessment of children making and selling liquor in South Africa*, August, 2006, 8-10.

⁵³⁰³ Saranel Benjamin, *A rapid assessment on scavenging and waste recycling work by children in South Africa*, October, 2007, 7-9, 23.

⁵³⁰⁴ *Ibid.*, 11.

⁵³⁰⁵ 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/ipceinfo/product/viewProduct.do;jsessionid=0a038009cef56a88a5b927f48058ae6be8ee22b5c19.hkzFngTDp6WImQuUaNaLahD3IN4K-xaIah8S-xyIn3uKmAiN-AnwbQbxaNvzaAml-huKa30xgx95>

fjWTa3eIpkzFngTDp6WImQuxah8LaN8Qc3yOa2b48OX3b4DtGj15eMbyknvrkLOlQzNp65In0__?productId=4211.

⁵³⁰⁶ 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=bibtite^like^trafficking&filter2=abstract^like^trafficking>. See also Government of South Africa, *Child Labour Programme of Action: Phase 2*, 18.

⁵³⁰⁷ University of Western Cape, *Children Used by Adults to Commit Crime: Childrens’ Perceptions 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/ipceinfo/product/viewProduct.do?productId=4485>. See also Government of South Africa, *Child Labour Programme of Action: Phase 2*, 18.

⁵³⁰⁸ U.S. Department of State, “Trafficking in Persons Report- 2010: South Africa.”

⁵³⁰⁹ 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>.

⁵³¹⁰ UNESCO, *Human Trafficking in South Africa*, 21. See also U.S. Department of State, “Trafficking in Persons Report- 2010: South Africa.” See also Government of South Africa, *Tsireledzani: understanding the dimensions of human trafficking in Southern Africa*, 150.

⁵³¹¹ U.S. Department of State, “Trafficking in Persons Report- 2010: South Africa.”

⁵³¹² Laura Gauer Bermudez, “No Experience Necessary”: *The Internal Trafficking of Presons in South Africa*, International Organization for Migration, Pretoria, October, 2008, 34, 41, 46, 47, 49. See also U.S. Department of State, “Trafficking in Persons Report- 2010: South Africa.”

⁵³¹³ Laura Gauer Bermudez, *No Experience Necessary*, 53, 56-58. See also U.S. Department of State, “Trafficking in Persons Report- 2010: South Africa.” See also U.S. Consulate-Johannesburg, *reporting, December 21, 2010*, para. 2.

⁵³¹⁴ Government of South Africa, *Basic Conditions of Employment Act, No. 75 of 1997*, (December 5, 1997), article 43(1)(2); available from <http://www.info.gov.za/view/DownloadFileAction?id=70820>.

⁵³¹⁵ 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.

⁵³¹⁶ 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=bibttitle^like^trafficking&filter2=abstract^like^trafficking>.

⁵³¹⁷ *Ibid.*, 21, 35, 39-41.

⁵³¹⁸ *Ibid.*, 36-37 and 42-43.

⁵³¹⁹ *Ibid.*, 37. See also U.S. Consulate- Johannesburg, *reporting, December 21, 2010*, para. 4.

⁵³²⁰ Government of South Africa, *The Children's Amendment Act of 2007*, (March 2008), article 141(a-e); available from <http://www.info.gov.za/view/DownloadFileAction?id=86458>.

⁵³²¹ U.S. Embassy- Pretoria official, E-mail communication to USDOL official, October 28, 2010. See also U.S. Consulate- Johannesburg, *reporting, December 21, 2010*, para. 4.

⁵³²² Government of South Africa, *Tsireledzani: understanding the dimensions of human trafficking in Southern Africa*, 41.

⁵³²³ U.S. Consulate- Johannesburg, *reporting, December 21, 2010*, para. 20.

⁵³²⁴ Government of South Africa, *Defense Act 42 of 2002*, (February 2003), chapter 9, article 52(1), chapter 14, article 91(2); available from <http://www.dod.mil.za/documents/acts/New%20Defence%20Act%2042%20of%202002.pdf>. See also Coalition to Stop the Use of Child Soldiers, "South Africa," *In Child Soldiers Global Report* online, May 20, 2008; available from http://www.child-soldiers.org/library/global-reports?root_id=159&directory_id=216.

⁵³²⁵ Government of South Africa, *Child Justice Act, No. 75 of 2008*, (May 7, 2009), 2; available from <http://www.childjustice.org.za/default.htm>. See also U.S. Consulate- Johannesburg, *e-mail communication to USDOL official*, September 20, 2010.

⁵³²⁶ Government of South Africa, *Child Justice Act*, articles 51(1a), 61(1a), and 62(1a).

⁵³²⁷ *Ibid.*, articles 89(1) and 92.

⁵³²⁸ *Ibid.*, article 92.

⁵³²⁹ U.S. Consulate- Johannesburg, *reporting, December 21, 2010*, para. 23.

⁵³³⁰ Republic of South Africa Minister of Labor, *Speech at the Child Labour Conference: The Hague*, May 11, 2010, 3-4.

⁵³³¹ U.S. Consulate- Johannesburg, *reporting, December 21, 2010*, para. 23.

⁵³³² U.S. Consulate- Johannesburg, *reporting, February 2, 2010*. See also U.S. Consulate- Johannesburg, *reporting, December 18, 2009*, para. 3.

⁵³³³ ILO-IPEC, *Towards the Elimination of the Worst Forms of Child Labor (TECL), Phase II*, Technical Progress Report, Geneva, August 23, 2010, 5.

⁵³³⁴ U.S. Consulate- Johannesburg, *reporting, December 21, 2010*, para. 14. See also U.S. Consulate- Johannesburg, *reporting, February 2, 2010*, para. 17-18.

⁵³³⁵ U.S. Consulate- Johannesburg, *reporting, December 21, 2010*, para. 18. See also U.S. Consulate- Johannesburg, *reporting, February 2, 2010*, para. 17.

⁵³³⁶ U.S. Consulate- Johannesburg, *reporting, February 2, 2010*, para. 15.

⁵³³⁷ *Ibid.*, para. 17.

⁵³³⁸ 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>.

⁵³³⁹ Government of South Africa, *Child Labour Programme of Action: Phase 2*, 61.

⁵³⁴⁰ *Ibid.*

⁵³⁴¹ 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>.

⁵³⁴² UNESCO, *Human Trafficking in South Africa*, 48.

⁵³⁴³ 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.

⁵³⁴⁴ South African Law Reform Commission, *South African Law Reform Commission Project 131*, para. 1.10.

⁵³⁴⁵ 50 ILO-IPEC, *TECL, Phase II, Technical Progress Report*, 3.

⁵³⁴⁶ Government of South Africa, *Tsireledzani: understanding the dimensions of human trafficking in Southern Africa*, section 11.2 and 3.9.2.4. See also U.S. Department of State, "Trafficking in Persons Report- 2010: South Africa."

⁵³⁴⁷ U.S. Consulate- Johannesburg, *reporting, December 21, 2010*, para. 2.

⁵³⁴⁸ ILO-IPEC, *Towards the Elimination of the Worst Forms of Child Labor (TECL), Phase II*, Project Document, Geneva, September 25, 2008, 36-37.

⁵³⁴⁹ Government of South Africa, *Child Labour Programme of Action: Phase 2*, 4. See also U.S. Consulate- Johannesburg, *reporting, February 2, 2010*.

⁵³⁵⁰ Government of South Africa, *Child Labour Programme of Action: Phase 2*, 95-102.

⁵³⁵¹ Government of South Africa, *Situation Analysis of Children in South Africa*, April, 2009, 17; available from <http://www.thepresidency.gov.za/docs/pcsa/gdch/situation->

analysis.pdf. See also U.S. Consulate-Johannesburg, *reporting, February 2, 2010*, para 61.

⁵³⁵² Government of South Africa, *Situation Analysis of Children*, 73.

⁵³⁵³ IOM, *South Africa: Facts and Figures*, [online] 2011 [cited May 6, 2011]; available from http://iom.org.za/site/index.php?option=com_content&task=view&id=59&Itemid=64.

⁵³⁵⁴ IOM, *EYE on Human Trafficking*, Pretoria, February 22, 2010, 5; available from <http://iom.org.za/site/>. See also Government of South Africa, *Tsireledzani: understanding the dimensions of human trafficking in Southern Africa*, ii. See also South African Law Reform Commission, *South African Law Reform Commission Project 131*, para 1.12

⁵³⁵⁵ Government of South Africa, *Tsireledzani: understanding the dimensions of human trafficking in Southern Africa*, ii, 50.

⁵³⁵⁶ U.S. Consulate- Johannesburg, *reporting, December 21, 2010*, para, 17.

⁵³⁵⁷ 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.

⁵³⁵⁸ Minister of Labor, *Speech at the Child Labour Conference: The Hague*, 4,6. See also ILO-IPEC, *TECL, Phase II, Technical Progress Report*, 6.

⁵³⁵⁹ ILO-IPEC, *TECL, Phase II, Technical Progress Report*, 6.

⁵³⁶⁰ U.S. Consulate- Johannesburg, *reporting, December 21, 2010*, 26.

⁵³⁶¹ Government of South Africa, *Situation Analysis of Children*, 99.

⁵³⁶² *Ibid.*, 101.