

Malawi

The Government of Malawi has supported social programs targeting working children and their families. However, implementation of existing policies and limited enforcement has hindered the elimination of the worst forms of child labor. The Government has not passed legislation protecting children working on tenant farms. Children continue to engage in such work particularly in the tea and tobacco sectors.



Statistics on Working Children and School Attendance

Children	Age	Percent
Working	5-14 yrs.	33.6%
Attending School	5-14 yrs.	79.5%
Combining Work and School	7-14 yrs	36.7%

Prevalence and Sectoral Distribution of the Worst Forms of Child Labor

Children in Malawi are exploited in the worst forms of child labor.³⁰⁷⁰ Many work on farms, including in the commercial tea and tobacco sectors. These children are exposed to verbal and physical abuse, physical injuries from carrying heavy loads, respiratory problems, and exposure to toxic fertilizers and pesticides. Nicotine absorption from handling tobacco causes illness, including Green Tobacco Sickness.³⁰⁷¹ Children are involved in the tenancy system, where owners loan tenants agricultural inputs and deduct the debt from future profits. Cases in which families cannot meet production quotas and repay these debts might lead to debt bondage.³⁰⁷²

Boys are also involved in the worst forms of child labor in quarrying, mining, fishing, and construction, where they carry heavy loads, work long hours, and are exposed to dangerous conditions. Although evidence is limited, there is reason to believe that the worst forms of child labor are used in the production of cattle.³⁰⁷³

Girls are involved in domestic service, where they may work long hours and are often abused.³⁰⁷⁴

Children are also exploited, and in some cases trafficked, into other worst forms of child labor, including prostitution, begging, and sex tourism.³⁰⁷⁵ Within Malawi, boys are also trafficked for animal herding and girls for work in restaurants, bars, and domestic service.³⁰⁷⁶ Malawian children and children from Zambia and Mozambique are trafficked for forced labor on farms.³⁰⁷⁷

Laws and Regulations on the Worst Forms of Child Labor






The Employment Act No. 6 (Republic of Malawi, 2000) sets the minimum age for employment at 14. This minimum age does not extend to work performed in vocational technical schools, training institutions, or private homes.³⁰⁷⁸ The Employment Act sets the minimum age for hazardous labor at 18.³⁰⁷⁹ However, the Constitution also protects children under age 16 from hazardous work.³⁰⁸⁰ This discrepancy may lead to inconsistent enforcement of the law. While, the Act and Malawi's Constitution forbid children from engaging in hazardous labor, these laws do not define or list what types of work are banned.³⁰⁸¹

Malawi has no minimum compulsory age for attending school, leaving children under age 14, who are not

required to be in school and not permitted to legally work either, vulnerable to the worst forms of child labor.

The Employment Act and Constitution of the Republic of Malawi prohibit and punish slavery, servitude, and forced labor.³⁰⁸² There is currently no specific anti-trafficking legislation in Malawi, though trafficking can be prosecuted through child labor, forced labor, and hazardous labor provisions the Employment Act and Penal Code.³⁰⁸³ The Penal Code includes protections for girls from sexual exploitation, but not boys.³⁰⁸⁴ It criminalizes procurement, but not the sale of girls into prostitution, nor does it prohibit pornography.³⁰⁸⁵

The Government of Malawi finalized an updated list of hazardous tasks.³⁰⁸⁶ The draft Tenancy Bill, which regulates labor tenancy and includes legal protections for children working in agriculture through the tenancy system has not been passed and signed into law.³⁰⁸⁷

	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	14
	Minimum Age for Hazardous Work	18
	Compulsory Education Age	No
	Free Public Education	Yes

Institutional Mechanisms for Coordination and Enforcement

The Ministry of Labor’s Child Labor Unit is the primary agency coordinating efforts to combat child labor.³⁰⁸⁸ This unit provides technical assistance to other government agencies implementing child labor laws at the district and national-level.³⁰⁸⁹ It also provides policy planning and guidance on child labor issues, including to the Child Labor Network, of which it is a member. This Network is responsible for drafting policies, identifying resources, and harmonizing programs and activities for the elimination of the worst forms of child labor.³⁰⁹⁰ Participating members include government, trade unions, employers, and civil society.³⁰⁹¹

Malawi also has created a coordination mechanism to address human trafficking. Led by the Ministry for Gender, Children, and Community Development, the Inter-ministerial Task Force on Human Trafficking coordinates anti-trafficking efforts and partners with international and NGOs to draft national action plans to combat trafficking.³⁰⁹² The National Steering Committee on Orphans and Vulnerable Children and the National Steering Committee on Child Labor are also responsible for addressing trafficking issues specifically related to children.³⁰⁹³ There is reportedly no coordination between the task force and these two committees.³⁰⁹⁴

The Ministry of Labor’s General Inspectorate is charged with performing inspections and investigating all labor complaints, including those related to child labor.³⁰⁹⁵ Labor officers in 29 decentralized district offices administer and coordinate labor inspection services.³⁰⁹⁶ To report hazardous child labor, workers and district child labor protection committees are encouraged to notify these district labor offices.³⁰⁹⁷

By law, labor inspectors are required to visit workplaces biannually. They are to use standard forms to guide and report the results of their inspection for child labor.³⁰⁹⁸ However, according to the ILO, these standard forms are not yet widely used and mandatory inspections do not regularly take place due to lack of resources.³⁰⁹⁹

In 2009, the Ministry of Labor’s 160 inspectors performed 2,645 inspections.³¹⁰⁰ According to the Government of Malawi, child labor violations

were prosecuted in the courts, including 67 cases between January 2009 and March 2010.³¹⁰¹ A Labor Inspection Policy was developed providing instruction on conducting general labor inspections and training on the use of the ILO-developed child labor law enforcement manual was provided to district government staff.³¹⁰²

The Ministry of Gender, Children, and Community Development is the lead agency responsible for the enforcement of trafficking laws.³¹⁰³ The Ministry employs child protection workers to identify trafficking and child labor victims.³¹⁰⁴ The police also rescue child trafficking victims.³¹⁰⁵ Other agencies supporting the enforcement of child trafficking laws include the Ministry of Justice, the Ministry of Labor, and the Ministry of Local Government and Rural Development.³¹⁰⁶

Government Policies on the Worst Forms of Child Labor

The draft National Child Labor Policy (2009) that provides government, civil society, and other partners with a framework to implement child labor programs and activities, still awaits Cabinet approval.³¹⁰⁷ However, the Government approved the National Action Plan to Combat Child Labor, which proposes concrete activities to support this and other policies to combat child labor.³¹⁰⁸

The National Youth Policy (1996) includes protections for at-risk youth. The policy addresses the problem of youth unemployment and lack of education, and includes services aimed at eliminating child labor.³¹⁰⁹

Malawi has mainstreamed child labor into other important development agendas. For instance, Malawi's Growth and Development Strategy 2006-2011 makes the elimination of the worst form of child labor a priority. It sets a budget for efforts to combat child labor, including for activities of the child labor unit.³¹¹⁰ The government and UN-agencies in Malawi work together under the One UN Fund program. Among other things, this program seeks to enhance current UN agencies' activities to combat child labor.³¹¹¹ The government's ILO-supported Decent Work Country Program prioritizes the elimination of the worst forms of child labor and includes an indicator to monitor progress toward this end.³¹¹²

The Government of Malawi developed a National Child Labor Database in 2002 which identifies child laborers.³¹¹³

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

In recent years, the Government has partnered with international organizations to withdraw and prevent children from the worst forms of child labor. ILO-IPEC has implemented two USDOL-funded projects. These projects have helped strengthen child labor policies, created a child labor database monitoring system, and assisted in the drafting of codes of conduct for the elimination of child labor in the production of tea, tobacco, and other agricultural goods. To date, they have withdrawn or prevented 1,625 children from the worst forms of child labor and aim to do the same for 4,982 children by the end of 2012.³¹¹⁴ The Government of Malawi is also a member of a steering committee member of the Eliminating Child Labor in Tobacco Growing (ECLT) Foundation's Integrated Child Labor Elimination Project, which intends to reduce child labor in 200 villages.³¹¹⁵

The Government is implementing the National Education Strategic Plan 2008-2017.³¹¹⁶ During the reporting period, the Ministry of Education ran national campaigns to promote free primary education, trained more primary school teachers and provided incentives to teachers to take positions in rural areas.³¹¹⁷ In collaboration with NGO partners, the Government developed educational infrastructure, including hostels, feeding shelters, school buildings, and improved sanitation; and built the capacity of community leaders, teachers, and government officials to combat child labor.³¹¹⁸ The Government also utilizes a reference manual on child labor and education produced by the Teachers Union of Malawi.³¹¹⁹

To help victims of trafficking, the government runs a shelter providing counseling and rehabilitation for child trafficking victims and street children. The Government of Malawi conducted a child trafficking study in partnership with UNICEF.³¹²⁰

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

IN THE AREA OF LAWS AND REGULATIONS:

- Make education compulsory for all children.
- Clarify the minimum age for hazardous work and adopt specific definitions of hazardous work prohibited to children.
- Protect children working in the tenancy system by passing the Tenancy Bill, which regulates tenant farms and protects children working on them.
- Ensure that both boys and girls are protected from sexual exploitation.

IN THE AREA OF COORDINATION AND ENFORCEMENT:

- Improve coordination among key agencies and bodies responsible for combating child trafficking.
- Adopt the current ILO child labor law enforcement manual nationwide.
- Require inspectors to use newly developed data collection forms and keep records of workplace visits.
- Provide training on the Labor Inspection Policy.
- Provide resources to enable labor inspectors to conduct biannual inspections.

IN THE AREA OF POLICIES:

- Finalize and implement the draft Child Labor Policy.

³⁰⁷⁰ Data provided in the chart at the beginning of this country report are based on UCW analysis of ILO SIMPOC, UNICEF MICS, and World Bank surveys, *Child Economic Activity, School Attendance, and Combined Working and Studying Rates*, 2005-2010. Data on working children and school attendance are from 2006. Data on children combining working and schooling are from 2004. 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. As a result, statistics and information on children's work in general are reported in this section, which may or may not include the worst forms of child labor. For more information on sources used, 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 of this report.

³⁰⁷¹ ILO-IPEC, *Malawi: Child Labour Data Country Brief*, Geneva, January 2008; available from www.ilo.org/ipecinfor/product/download.do?type=document&id=7802. See also Plan International, *Hard work, long hours, and little pay*, 2009, 11, 31, 41, 34; available from <http://plan-international.org/files/global/publications/protection/Plan%20Malawi%20child%20labour%20and%20tobacco%202009.pdf>. See also ECLT Foundation, "Integrated Child Labour Elimination Program, Phase 2 Baseline Survey", [online], August, 2008

[cited April 14, 2010]; available from http://www.eclt.org/site/wp-content/uploads/2009/09/MalawiICLEP1_Baseline.pdf. See also Olivia Sterns, "Child Tobacco Farmers 'Exposed to Toxic Levels of Nicotine'", [online], September 25 2009 [cited November 24, 2010]; available from <http://www.cnn.com/2009/HEALTH/09/25/child.tobacco.picking/index.html>. See also Deborah Fahy Bryceson, "Ganyu casual labour, famine and HIV/AIDS in rural Malawi: causality and casualty," *Journal of Modern African Studies* 44, no. 2 (2006).

³⁰⁷² ILO-IPEC, *Project of Support to the National Action Plan to Combat Child Labour in Malawi*, Project Document, Geneva, September 2009. See also Government of Malawi, *Response to the Trafficking Victims Protection Reauthorization Acts (TVPRA) Report*, November 2009.

³⁰⁷³ U.S. Department of State, "Malawi," in *Malawi: Country Reports on Human Rights Practices- 2009*, Washington, DC, March 11, 2009; available from <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135957.htm>. See also M.G. Tsoka, *Rapid Assessment of Child Domestic Labour in Malawi Volume I: Main Report*, ILO-IPEC and the University of Malawi Centre for Social Research, Zomba, January 2005; available from <http://www.ilo.org/ipecinfor/product/viewProduct.do?productId=4727>. See also Ministry of Justice, *First periodic report of Malawi on the implementation of the Convention on the Rights of the Child*, 2007, 22; available from <http://www2>.

ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.MWI.2.pdf. See Tsoka, *Rapid Assessment of Child Domestic Labour in Malawi*, 202. See also Kwakwarhi Mwanamai, *Malawi: Poverty afflicts children orphaned by AIDS*, UNICEF, November 5, 2005; available from www.unicef.org/infobycountry/malawi_29672.html?q=printme. ILO-IPEC, *Rapid assessment report on HIV/AIDS and child labour [stated in six selected districts of Zambia: Lusaka, Luanshya, Livingstone, Kapiri Mposhi, Katete and Chipata]*, International Programme on the Elimination of Child Labour, Lusaka, July 17, 2007, vi, x.

³⁰⁷⁴ U.S. Department of State, “Country Reports- 2009: Malawi.” See also Tsoka, *Rapid Assessment of Child Domestic Labour in Malawi*. See also Ministry of Justice, *First periodic report of Malawi on the implementation of the CRC*, 22. See Tsoka, *Rapid Assessment of Child Domestic Labour in Malawi*, 202. See also U.S. Embassy- Lilongwe, *reporting*, May 30, 2008, para 1. See also Mwanamai, *Malawi: Poverty afflicts children orphaned by AIDS*. See also ILO-IPEC, *Project of Support to the National Action Plan to Combat Child Labour in Malawi, Project Document (September 2009)*, iv.

³⁰⁷⁵ Ministry of Justice, *First periodic report of Malawi on the implementation of the CRC*, 66.

³⁰⁷⁶ U.S. Department of State, “Malawi (Tier 2),” in *Trafficking in Persons Report- 2010*, Washington, DC, June 14, 2010; available from <http://www.state.gov/g/tip/rls/tiprpt/2010/142760.htm>.

³⁰⁷⁷ Ministry of Justice, *First periodic report of Malawi on the implementation of the CRC*, 66. See also Millennium Center for Research & Development, *Final Report: Child Trafficking in Malawi*, ILO-IPEC, September 2008, viii, 21. See also Ministry of Justice, *First periodic report of Malawi on the implementation of the CRC*, 21.

³⁰⁷⁸ Government of Malawi, *Employment Act No.6*, (2000), articles 21, 22; available from <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/58791/65218/E00MWIo1.htm>.

³⁰⁷⁹ Ibid.

³⁰⁸⁰ Government of Malawi, *Constitution*, (2004); available from <http://www.sdn.org.mw/constitut/dtlinde.html>.

³⁰⁸¹ Government of Malawi, *Response to the Trafficking Victims Protection Reauthorization Acts (TVPRA) Report*. See also Government of Malawi, *Constitution*, article 23.

³⁰⁸² Government of Malawi, *Response to the Trafficking Victims Protection Reauthorization Acts (TVPRA) Report*, 27. See also Government of Malawi, *Employment Act No.6*, articles 4(1,2). See also Integrated Regional Information Networks, “Malawi: Outrage over lenient fine for trafficking boys”, IRINnews.org, [online], December 16, 2006 [cited March 18, 2010]; available from <http://www.irinnews.org/Report.aspx?ReportId=56005>. See also Government of Malawi, *Constitution*.

³⁰⁸³ Government of Malawi, *Penal Code*, n.d., 257-269, 135-147; available from <http://www.protectionproject.org> [hard copy on file]. See also Government of Malawi, *Employment Act No.6*, article 4.

³⁰⁸⁴ Government of Malawi, *Penal Code*, art 140. See also Government of Malawi, “Current Affairs: Civil Society Expresses Concern Over Laws”, [online], May 6, 2010 [cited November 23, 2010]; available from <http://www.malawi.gov.mw/story.php?id=141>.

³⁰⁸⁵ Government of Malawi, *Penal Code*. See also Government of Malawi, “Current Affairs: Civil Society Expresses Concern Over Laws”.

³⁰⁸⁶ U.S. Embassy- Lilongwe, *reporting*, February 1, 2010.

³⁰⁸⁷ U.S. Embassy- Lilongwe, *reporting*, February 1, 2010, section 5(2). See also ILO-IPEC, *Country Programme to Combat Child Labour in Malawi, Technical Progress Report*, Geneva, September 2008, 77. See also ILO-IPEC, *Project of Support to the National Action Plan to Combat Child Labour in Malawi, Project Document (September 2009)*, 7.

³⁰⁸⁸ U.S. Embassy- Lilongwe, *reporting, February 1, 2010*, 2c: 1, 2, 4.

³⁰⁸⁹ ILO-IPEC, *Program to Combat Child Labor in Malawi, Technical Progress Report (September 2008)*, 41, 71, 78.

³⁰⁹⁰ U.S. Embassy- Lilongwe, *reporting, February 1, 2010*, 2c: 6. See also Government of Malawi, *Response to the Trafficking Victims Protection Reauthorization Acts (TVPRA) Report*, 6.

³⁰⁹¹ U.S. Embassy- Lilongwe, *reporting, February 1, 2010*. See also Government of Malawi, *Response to the Trafficking Victims Protection Reauthorization Acts (TVPRA) Report*.

³⁰⁹² U.S. Department of State, “Trafficking in Persons Report- 2010: Malawi.”

³⁰⁹³ Ibid.

³⁰⁹⁴ Ibid.

³⁰⁹⁵ ILO, *Malawi Information Resources: Labor Administration and Inspection Program*, Geneva, March 2009; available from http://www.ilo.org/labadmin/info/lang--en/WCMS_112605/index.htm.

³⁰⁹⁶ U.S. Embassy- Lilongwe, *reporting, February 1, 2010*.

³⁰⁹⁷ Government of Malawi, *Response to the Trafficking Victims Protection Reauthorization Acts (TVPRA) Report*. See also U.S. Embassy- Lilongwe, *reporting, February 1, 2010*, 3.

³⁰⁹⁸ U.S. Embassy- Lilongwe, *reporting, February 1, 2010*. See also Government of Malawi, *Response to the Trafficking Victims Protection Reauthorization Acts (TVPRA) Report*, 11.

³⁰⁹⁹ ILO, *Labor Administration and Inspection Programme*, February 22 2010; available from http://www.ilo.org/labadmin/info/lang--en/WCMS_112605/index.htm.

- ³¹⁰⁰ U.S. Embassy- Lilongwe, *reporting, February 1, 2010*, para. 5, 6.
- ³¹⁰¹ Government of Malawi, *Response to the Trafficking Victims Protection Reauthorization Acts (TVPRA) Report*, 11.
- ³¹⁰² ILO-IPEC, *Project of Support to the National Action Plan to Combat Child Labour in Malawi*, Project of Support to the National Action Plan to Combat Child Labour in Malawi, Technical Progress Report, Geneva, March 2010. See also Government of Malawi, *Response to the Trafficking Victims Protection Reauthorization Acts (TVPRA) Report*, 11.
- ³¹⁰³ U.S. Embassy- Lilongwe, *reporting, February 1, 2010*, section I:1.
- ³¹⁰⁴ U.S. Department of State, “Malawi,” in *Country Reports on Human Rights Practices- 2008*, Washington, DC, February 25, 2009; available from <http://www.state.gov/g/drl/rls/hrrpt/2008/af/119011.htm>. See also U.S. Embassy- Lilongwe, *reporting, February 1, 2010*, 2D:1.
- ³¹⁰⁵ U.S. Embassy- Lilongwe, *reporting, February 13, 2009*, section 1. See also U.S. Department of State, “Trafficking in Persons Report- 2010: Malawi.”
- ³¹⁰⁶ U.S. Department of State, “Trafficking in Persons Report- 2010: Malawi.” See also U.S. Embassy- Lilongwe, *reporting, February 1, 2010*, 2D: 1.
- ³¹⁰⁷ U.S. Embassy- Lilongwe, *reporting, February 1, 2010*, III, B 1-3. See also ILO-IPEC, *Technical Progress Report (March 2010)*, 2-3.
- ³¹⁰⁸ ILO-IPEC, *Technical Progress Report (March 2010)*, 3.
- ³¹⁰⁹ Government of Malawi, *Response to the Trafficking Victims Protection Reauthorization Acts (TVPRA) Report*, 7.
- ³¹¹⁰ U.S. Embassy- Lilongwe, *reporting, January 12, 2009*, section 7. See also Government of Malawi, *Malawi Growth and Development Strategy: From Poverty to Prosperity 2006-2011*, 2006, 211; available from http://planipolis.iiep.unesco.org/upload/Malawi/Malawi_PRSP_2006_2011.pdf. See also ILO-IPEC, *Technical Progress Report (March 2010)*.
- ³¹¹¹ ILO-IPEC, *Project of Support to the National Action Plan to Combat Child Labour in Malawi, Project Document (September 2009)*, iv. See also ILO-IPEC, *Technical Progress Report (March 2010)*.
- ³¹¹² ILO-IPEC, *Project of Support to the National Action Plan to Combat Child Labour in Malawi, Project Document (September 2009)*, iv.
- ³¹¹³ UN Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 44 of the Convention. Concluding observations: Malawi*, March 27, 2009, 15; available from <http://www.unhcr.org/refworld/country,,CRC,,MWI,,49d5f7a10,0.html>.
- ³¹¹⁴ ILO-IPEC, *Country Programme to Combat Child Labour in Malawi*, Project Document, Geneva, 2005, 2, 41, cover page. See also ILO-IPEC, *Country Programme to Combat Child Labour in Malawi*, Final Technical Progress Report, Geneva, March 2009, 1 and 26. See also ILO-IPEC, *Country Programme to Combat Child Labour in Malawi*, Project Document (Modification 2), Geneva, 2010.
- ³¹¹⁵ See ECLT Foundation, “Quick Facts: ECLT in MALAWI, ICLEP 2”, [online], [cited April 14, 2010]; available from http://www.eclt.org/activities/projects/malawi_iclep2.html. See also U.S. Embassy- Lilongwe, *reporting, May 30, 2008*, para 2.
- ³¹¹⁶ ILO-IPEC, *Project of Support to the National Action Plan to Combat Child Labour in Malawi, Project Document (September 2009)*, 7.
- ³¹¹⁷ ILO-IPEC, *Program to Combat Child Labor in Malawi, Technical Progress Report (September 2008)*.
- ³¹¹⁸ Government of Malawi, *Response to the Trafficking Victims Protection Reauthorization Acts (TVPRA) Report*, 11, 12.
- ³¹¹⁹ ILO-IPEC, *Program to Combat Child Labor in Malawi, Technical Progress Report (September 2008)*.
- ³¹²⁰ U.S. Embassy- Lilongwe, *reporting, January 12, 2009*, sect. 6. See also Millennium Center for Research & Development, *Child Trafficking in Malawi*, 56. See also U.S. Embassy- Lilongwe, *reporting, February 13, 2009*, section 2. See also U.S. Embassy- Lilongwe, *reporting, February 1, 2010*, 9: 1. See also CRIDOC SECRETARIAT, *Joint Project Proposal: Enhancing Youth Participation in 16 Days of Activism against Gender Violence*, 2009; available from <http://www.cwgl.rutgers.edu/16days/kit09/cal/africa/malawiCRIDOCproposal.doc>.