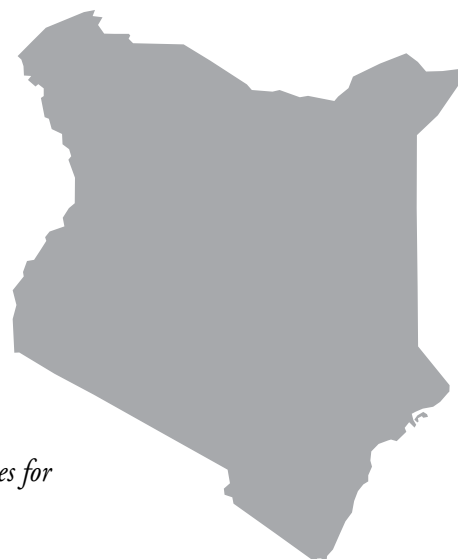


*In 2016, Kenya made a moderate advancement in efforts to eliminate the worst forms of child labor. Kenya's parliament passed the National Policy on the Elimination of Child Labor. In addition, the Kenyan police established a new Child Protection Unit to investigate cases of child exploitation such as commercial sexual exploitation. The Government also participated in social programs to combat the worst forms of child labor. However, children in Kenya engage in the worst forms of child labor, including in agriculture and commercial sexual exploitation. Kenya has yet to ratify the UN CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. In addition, the age gap between the compulsory education age and the minimum age for work leaves children vulnerable to child labor, as they are not required to attend school at age 14 but cannot legally work until age 16. The Government has also not committed sufficient resources for enforcement efforts.*



## I. PREVALENCE AND SECTORAL DISTRIBUTION OF CHILD LABOR

Children in Kenya engage in the worst forms of child labor, including in agriculture and commercial sexual exploitation.(1-5) Table 1 provides key indicators on children's work and education in Kenya.

**Table 1. Statistics on Children's Work and Education**

| Children                      | Age     | Percent          |
|-------------------------------|---------|------------------|
| Working (% and population)    | 5 to 14 | 35.6 (3,736,030) |
| Attending School (%)          | 5 to 14 | 85.8             |
| Combining Work and School (%) | 7 to 14 | 23.0             |
| Primary Completion Rate (%)   |         | 105.2            |

Source for primary completion rate: Data from 2015, published by the UNESCO Institute for Statistics, 2016.(6)

Source for all other data: Understanding Children's Work Project's analysis of statistics from Population and Housing Census, 2009.(7)

Based on a review of available information, Table 2 provides an overview of children's work by sector and activity.

**Table 2. Overview of Children's Work by Sector and Activity**

| Sector/Industry | Activity  |
|-----------------|---|
| Agriculture     | Farming, <sup>†</sup> including the production of tea, coffee, <i>miraa</i> , <sup>†</sup> rice, sisal, sugarcane, tobacco, corn, flowers, and cotton (4, 8-15) |
|                 | Herding livestock <sup>†</sup> (4, 8, 13)   |
|                 | Fishing, <sup>†</sup> including for tilapia, sardines, and other fish (4, 8, 16-20)   |
|                 | Burning wood to produce charcoal (4, 8, 16, 21)   |
| Industry        | Construction, <sup>†</sup> including carrying heavy loads (4, 8, 13)  |
|                 | Quarrying, <sup>†</sup> including for stones and coral (4, 8, 14, 21)   |
|                 | Harvesting sand <sup>†</sup> (4, 8, 13, 16, 21-24)  |
|                 | Making bricks <sup>†</sup> (4, 13, 21)  |
|                 | Mining <sup>†</sup> for gold and salt (4, 8, 13, 14, 25, 26)  |
|                 | Working in slaughterhouses, <sup>†</sup> including disposal of after-products and cleaning (4, 27)  |
| Services        | Domestic work <sup>†</sup> (4, 8, 14, 16, 20-22, 27)  |
|                 | Street work, including vending (4, 5, 13, 14, 27)   |
|                 | Transporting goods <sup>†</sup> and people <sup>†</sup> by bicycle, motorcycle, and handcart <sup>†</sup> (4, 8, 21)  |
|                 | Scavenging for scrap materials <sup>†</sup> (4, 8, 14, 16, 19, 27)  |
|                 | Begging <sup>†</sup> (4, 8, 28)   |

**Table 2. Overview of Children's Work by Sector and Activity (cont)**

| Sector/Industry                         | Activity   |
|---|--|
| Categorical Worst Forms of Child Labor† | Commercial sexual exploitation, sometimes as a result of human trafficking (4, 8, 14, 16, 17, 29-33)   |
|   | Use in illicit activities, including drug trafficking (4, 13, 26)  |
|   | Begging, street vending, domestic service, herding livestock, fishing, and work on tobacco farms, sometimes as a result of human trafficking (4, 8, 11, 14, 17, 29, 32-35) |

† Determined by national law or regulation as hazardous and, as such, relevant to Article 3(d) of ILO C. 182.

‡ Child labor understood as the worst forms of child labor *per se* under Article 3(a)–(c) of ILO C. 182.




Kenyan children are subjected to trafficking inside the country, typically by family or friends, to perform domestic work, agriculture work, and street vending.(33, 36) Children in Kenya scavenge dumpsites and streets for scrap material, including metal and glass.(8, 14, 16) These children earn about \$1–\$2 per day, while often risking injury and exposing themselves to infectious diseases, such as tetanus, by sorting through waste. Evidence suggests that such children are also exposed to mercury due to e-waste recycling and gold mining.(8) Reports also indicate that children ages 10–17 mine or harvest sand and work in Busia, Homa Bay, Kilifi, Kitui, Machakos, and Nakuru counties, increasing their likelihood of developing aggravated asthma, lung or heart disease, and cancer.(1, 22, 23, 37-39) The commercial sexual exploitation of children, sometimes as a result of human trafficking, is also a problem in Kenya, especially in the cities of Eldoret, Kisumu, Nairobi, Nyeri, and in coastal areas.(8, 14, 16, 30, 31, 33) The majority of children who are engaged in commercial sexual exploitation are girls, but boys are also involved.(8, 14)

Kenyan law mandates free education and prohibits schools from charging tuition fees. However, the cost of unofficial school fees, books, and uniforms prevent some children from attending school.(18, 23, 40-43) The Births and Deaths Registration Act mandates birth registration, but many children living in rural areas are not registered at birth. As a result, nonregistered children have difficulty accessing services such as education because they must provide a birth certificate before enrolling in school or sitting for exams.(14, 44-46) Teacher and school shortages further hinder children's access to education.(4) Teachers sexually abusing children also negatively affect school attendance. In addition, in isolated cases, some school administrators deny pregnant girls admittance to schools.(14, 47, 48) The last national child labor survey was conducted in 2000.(7) As a result, data may no longer reflect the current child labor situation in Kenya.

## II. LEGAL FRAMEWORK FOR THE WORST FORMS OF CHILD LABOR

Kenya has ratified most key international conventions concerning child labor (Table 3).

**Table 3. Ratification of International Conventions on Child Labor**

| Convention   | Ratification |
|--|--------------|
|  ILO C. 138, Minimum Age                    | ✓            |
| ILO C. 182, Worst Forms of Child Labor   | ✓            |
|  UN CRC                                     | ✓            |
| UN CRC Optional Protocol on Armed Conflict   | ✓            |
| UN CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography                                     |              |
|  Palermo Protocol on Trafficking in Persons | ✓            |

Kenya has not ratified the UN CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, although commercial sexual exploitation of children continues to be a problem in Kenya.

The Government has established laws and regulations related to child labor, including its worst forms (Table 4). However, gaps exist in Kenya's legal framework to adequately protect children from child labor.

**Table 4. Laws and Regulations on Child Labor**

| Standard  | Meets International Standards: Yes/No | Age | Legislation   |
|---|---------------------------------------|-----|---|
| Minimum Age for Work  | No                                    | 16  | Section 56 of the Employment Act; Section 10.4 of the Children Act; Section 12 of the Employment (General) Rules (43, 49, 50)   |
| Minimum Age for Hazardous Work  | Yes                                   | 18  | Sections 2 and 53.1 of the Employment Act; Sections 2 and 10.1 of the Children Act (43, 49)   |
| Identification of Hazardous Occupations or Activities Prohibited for Children | Yes                                   |     | Section 12 and the Fourth Schedule of the Employment (General) Rules; Section 10.1 of the Children Act (43, 50)   |
| Prohibition of Forced Labor   | Yes                                   |     | Article 30 of the Constitution; Sections 4.1 and 53.1 of the Employment Act; Sections 174 and 254–266 of the Penal Code; Article 3 of the Counter-Trafficking in Persons Act; Article 13 of the Sexual Offences Act; Section 13.1 of the Children Act (43, 49, 51–54) |
| Prohibition of Child Trafficking  | Yes                                   |     | Article 3 of the Counter-Trafficking in Persons Act; Article 13 of the Sexual Offences Act; Section 13.1 of the Children Act; Section 53.1 of the Employment Act; Sections 174 and 254–263 of the Penal Code (43, 49, 52–54)  |
| Prohibition of Commercial Sexual Exploitation of Children                     | Yes                                   |     | Articles 8 and 9, 11 and 12, and 14–16 of the Sexual Offences Act; Sections 2 and 53.1 of the Employment Act; Section 15 of the Children Act (43, 49, 54)   |
| Prohibition of Using Children in Illicit Activities                           | Yes                                   |     | Sections 2 and 53.1 of the Employment Act; Section 16 of the Children Act (43, 49)  |
| Minimum Age for Military Recruitment  |                                       |     |   |
| State Compulsory  | N/A*                                  |     | Article 243 (1) of the Kenya Defence Forces Act (55)  |
| State Voluntary   | Yes                                   | 18  | Section 10.2 of the Children Act; Article 243 (1) of the Kenya Defence Forces Act (43, 55)  |
| Non-state Compulsory  | Yes                                   | 18  | Article 3 of the Counter-Trafficking in Persons Act (53)  |
| Compulsory Education Age  | Yes                                   | 14‡ | Sections 28 and 30 of the Basic Education Act (42, 56, 57)  |
| Free Public Education   | Yes                                   |     | Section 7.2 of the Children Act; Sections 28, 29, and 32 of the Basic Education Act; Article 53(b) of the Constitution (42, 43, 51)   |

\* No conscription (55)

‡ Age calculated based on available information (56, 57)

Under Kenyan law, children working without a formal contract are not afforded minimum age protections.(43, 49) The Government has reported that children are required to attend school only until age 14, making children ages 14–15 vulnerable to child labor because they are not required to attend school but cannot legally work.(56, 57)

### III. ENFORCEMENT OF LAWS ON THE WORST FORMS OF CHILD LABOR

The Government has established institutional mechanisms for the enforcement of laws and regulations on child labor, including its worst forms (Table 5). However, gaps in labor law enforcement remain and some enforcement information is not available.

**Table 5. Agencies Responsible for Child Labor Law Enforcement**

| Organization/Agency                                     | Role   |
|---|--|
| Ministry of Labor, Social Security and Services (MLSSS) | Enforce labor laws, including those related to child labor, through county labor officers in Kenya's 47 counties.(8, 58, 59) Through its Child Labor Division, coordinate activities to eliminate child labor.(8) Coordinate services provided to children, ensure that child protection activities are being implemented countrywide, and maintain records on children and the services provided to them.(8)  |
| National Police Service                                 | Enforce laws related to the worst forms of child labor.(8) Includes an Anti-Trafficking Police Unit focused on prevention of commercial sexual exploitation of children, child trafficking, and the use of children in illicit activities. Tourism Police Unit addresses commercial sexual exploitation of children in the tourism industry.(60) In 2016, launched a police unit dedicated to the fight against commercial sexual exploitation of children.(5) |
| Office of the Director of Public Prosecutions           | Enforce laws through the prosecution of criminal offenses, including labor-related offenses.(4)  |

# Kenya

## MODERATE ADVANCEMENT

### *Labor Law Enforcement*

In 2016, labor law enforcement agencies in Kenya took actions to combat child labor, including its worst forms (Table 6).

**Table 6. Labor Law Enforcement Efforts Related to Child Labor**

| Overview of Labor Law Enforcement  | 2015    | 2016        |
|--|---------|-------------|
| Labor Inspectorate Funding   | Unknown | Unknown     |
| Number of Labor Inspectors   | 95 (4)  | 87 (5)      |
| Inspectorate Authorized to Assess Penalties  | No (4)  | No (5)      |
| Training for Labor Inspectors  |         |             |
| Initial Training for New Employees   | Unknown | N/A (5)     |
| Training on New Laws Related to Child Labor  | N/A     | N/A (5)     |
| Refresher Courses Provided   | No      | No (5)      |
| Number of Labor Inspections  | Unknown | Unknown (5) |
| Number Conducted at Worksite   | Unknown | Unknown (5) |
| Number Conducted by Desk Reviews   | Unknown | Unknown (5) |
| Number of Child Labor Violations Found   | Unknown | Unknown (5) |
| Number of Child Labor Violations for Which Penalties Were Imposed                  | Unknown | Unknown (5) |
| Number of Penalties Imposed That Were Collected                                    | Unknown | Unknown (5) |
| Routine Inspections Conducted  | Unknown | Unknown (5) |
| Routine Inspections Targeted   | Unknown | Unknown (5) |
| Unannounced Inspections Permitted  | Yes (4) | Yes (5)     |
| Unannounced Inspections Conducted  | Unknown | Unknown (5) |
| Complaint Mechanism Exists   | Yes (4) | Yes (5)     |
| Reciprocal Referral Mechanism Exists Between Labor Authorities and Social Services | Yes (4) | Yes (5)     |

The number of labor inspectors is insufficient for the size of Kenya's workforce, which includes over 18 million workers. According to the ILO recommendation of 1 inspector for every 15,000 workers in developing economies, Kenya should employ roughly 1,244 labor inspectors.(61-63) Reports also suggest that the Ministry of Labor, Social Security and Services budget is inadequate and hampers the labor inspectorate's capacity to enforce child labor laws.(5, 8, 64) Labor inspectors cannot issue fines or penalties but can send a compliance letter to an employer that dictates how much time the employer has to correct the violation.(5) The Government operates an emergency, toll-free, nationwide child hotline to report child abuse, including child labor, and refers callers to organizations for social protection services.(8, 65, 66) In 2016, research found no information about the number of calls received concerning the worst forms of child labor.

### *Criminal Law Enforcement*

In 2016, criminal law enforcement agencies in Kenya took actions to combat the worst forms of child labor (Table 7).

**Table 7. Criminal Law Enforcement Efforts Related to the Worst Forms of Child Labor**

| Overview of Criminal Law Enforcement  | 2015     | 2016        |
|---|----------|-------------|
| Training for Investigators  |          |             |
| Initial Training for New Employees  | Yes (32) | Unknown (5) |
| Training on New Laws Related to the Worst Forms of Child Labor                        | N/A      | N/A (5)     |
| Refresher Courses Provided  | Yes (32) | Unknown (5) |
| Number of Investigations  | Unknown  | Unknown*    |
| Number of Violations Found  | Unknown  | Unknown*    |
| Number of Prosecutions Initiated  | Unknown  | Unknown*    |
| Number of Convictions   | Unknown  | Unknown*    |
| Reciprocal Referral Mechanism Exists Between Criminal Authorities and Social Services | Yes (29) | Unknown     |

\* The Government does not publish this information.

In 2016 the Kenyan police, in collaboration with the UK National Crime Agency, established a Child Protection Unit to address child exploitation, – including child labor – due to a number of high-profile cases of UK citizens committing sexual offenses against Kenyan children. The unit so far has protected 150 children and is currently pursuing 15 cases against child sex offenders.(5)

#### IV. COORDINATION OF GOVERNMENT EFFORTS ON THE WORST FORMS OF CHILD LABOR

The Government has established mechanisms to coordinate its efforts to address child labor, including its worst forms (Table 8).

**Table 8. Key Mechanisms to Coordinate Government Efforts on Child Labor**

| Coordinating Body                                    | Role & Description  |
|--|---|
| National Steering Committee on Child Labor           | Oversee efforts to eliminate child labor.(8) Comprises government agencies, private employers, workers' organizations, and civil society organizations. Chaired by the Permanent Secretary, with coordination duties performed by the MLSSS Child Labor Division.(27)   |
| National Council for Children's Services             | Coordinate quarterly government efforts on child-related issues, including child labor.(8) Operate the National Children Database, which collects comprehensive data on children, including data on child labor.(8) Led by a presidential appointee. Comprises 18 NGOs, private sector representatives, faith-based organizations, and representatives from various ministries. |
| National Labor Board                                 | Advise the Cabinet Secretary of Labor, Social Security, and Services on all issues related to labor and employment, including legal and policy issues.(27)  |
| Counter-Trafficking in Persons Advisory Committee    | Coordinate the implementation of policies related to human trafficking and provide prevention and protection services to victims. Mandated by the Counter-Trafficking in Persons Act.(53) Comprises multiple government agencies, private employers, workers' organizations, and civil society organizations.(36)   |
| Local, Advisory, and District Child Labor Committees | Coordinate activities to eliminate child labor at the local level.(8)   |

Although the Government has coordination mechanisms, research could not find information about their accomplishments during the year.

#### V. GOVERNMENT POLICIES ON THE WORST FORMS OF CHILD LABOR

The Government has established policies related to child labor, including its worst forms (Table 9).

**Table 9. Key Policies Related to Child Labor\***

| Policy   | Description  |
|--|--|
| National Policy on the Elimination of Child Labor (2016)                             | Proposes strategies to prevent, identify, withdraw, rehabilitate, and reintegrate children involved in child labor, including its worst forms.(67)   |
| National Plan of Action Against Sexual Exploitation of Children in Kenya (2013–2017) | Aims to prevent, protect, and reintegrate child victims of commercial sexual exploitation. Emphasizes identifying children engaged in commercial sexual exploitation; raising the awareness of community leaders, parents, and tourism employees on commercial sexual exploitation; and implementing programs to assist victims.(66) |
| Framework for the National Child Protection System for Kenya (2011)                  | Describes the laws and policies that protect children from violence and exploitation, and the roles and responsibilities of the Government to protect children from exploitative work.(68)   |
| County Integrated Development Plan   | Serves as a guide for a county's development planning processes. Required of all 47 counties in Kenya.(69) For example, the plan addresses child labor on coffee and tea estates in Kiambu County and the issue of street children in Turkana County. (70, 71)   |

\* The Government had other policies that may have addressed child labor issues or had an impact on child labor.(72)

The National Plan of Action Against Sexual Exploitation of Children in Kenya did not include a corresponding budget.(66) Child labor elimination and prevention strategies do not appear to be integrated into the UN Development Assistance Framework, Policy for Alternative Provision of Basic Education and Training, Kenya National Social Protection Policy, and the National Education Sector Support Program.(5, 73, 74)

## VI. SOCIAL PROGRAMS TO ADDRESS CHILD LABOR

In 2016, the Government funded and participated in programs that include the goal of eliminating or preventing child labor, including its worst forms (Table 10).

**Table 10. Key Social Programs to Address Child Labor\***

| Program   | Description  |
|---|--|
| Projects to Combat Child Labor and Increase Education Access†                 | Government programs that aim to combat child labor, including its worst forms, such as commercial sexual exploitation of children and child trafficking. Child Protection and Rescue Centers temporarily house child victims and provide counseling and reintegration services for children; Kitui County Child Rescue Center, which withdraws and rehabilitates child laborers, provides counseling and life skills training. An NGO estimated that 600,000 street children live in Nairobi County. Government commissioned \$2 million to build a residence to house street children.(5) School Meals Program has served 1.5 million vulnerable children, resulting in improved school attendance.(4, 8, 75, 76) |
| National Safety Net Program for Results†                                      | \$411 million, government-funded, 5-year cash transfer and social safety net program, with support from the World Bank, benefitted 353,000 households by assisting families of working children, orphans, and vulnerable children to meet their basic needs and pay for school-related costs. Budget allocation of \$87 million for 2015–2016. (4, 8, 27, 76)  |
| USDOL-Funded Projects to Combat Child Labor and Support Youth Apprenticeships | USDOL-funded projects to combat child labor and support youth apprenticeships. Includes \$15.9 million <u>Global Action Program on Child Labor Issues Project</u> (2011–2016), implemented by ILO in approximately 40 countries, including Kenya; \$3 million <u>Better Utilization of Skills for Youth (BUSY) Through Quality Apprenticeships</u> (2016–2019)*; and \$1.4 million <u>Promoting Apprenticeship as a Path for Youth Employment in Kenya Through Global Apprenticeship Network (GAN) National Networks</u> (2016–2018). * Additional information is available on the USDOL <a href="#">Web site</a> .  |
| UN Agency Implemented Projects  | Strengthening Human Security in Turkana, a program lead by ILO and in collaboration with the Government to improve human security issues in Turkana that resulted in withdrawing 1,215 children from child labor. Refugee Assistance Program, a UNICEF-implemented program, provided educational and nutritional services to 320,250 children. Regional Counter-Trafficking Project, an IOM-implemented program, combats human trafficking through prevention, protection, and support for victims.(77-79)   |
| Child Labor Free Supply Chain Certifications                                  | Government program supported by an NGO, CESVI, develops child labor-free supply chain certifications.(8, 80)   |

\* Program was launched during the reporting period.

† Program is funded by the Government of Kenya.

‡ The Government had other social programs that may have included the goal of eliminating or preventing child labor, including its worst forms.(4, 79, 81-83)

Although Kenya has programs that target child labor, the scope of these programs is insufficient to fully address the extent of the problem, especially the commercial sexual exploitation of children.

## VII. SUGGESTED GOVERNMENT ACTIONS TO ELIMINATE THE WORST FORMS OF CHILD LABOR

Based on the reporting above, suggested actions are identified that would advance the elimination of child labor, including its worst forms, in Kenya (Table 11).

**Table 11. Suggested Government Actions to Eliminate Child Labor, Including its Worst Forms**

| Area            | Suggested Action   | Year(s) Suggested |
|-----------------|--|-------------------|
| Legal Framework | Ratify the CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.  | 2013 – 2016       |
|                 | Ensure that minimum age laws apply to children working in non-contractual employment.  | 2011 – 2016       |
|                 | Raise the compulsory education age to 16 to be equivalent to the minimum age for work.   | 2013 – 2016       |
| Enforcement     | Publish information about the labor inspectorate, including funding, training, inspections, child labor violations, penalties imposed, and whether routine and unannounced inspections are conducted; and ensure that labor enforcement efforts are adequately funded. | 2009 – 2016       |
|                 | Publish information about criminal law enforcement's efforts to investigate, prosecute, and convict perpetrators of the worst forms of child labor.  | 2009 – 2016       |
|                 | Increase the number of labor inspectors to provide sufficient coverage for the workforce.  | 2015 – 2016       |
|                 | Authorize labor inspectors to assess penalties for child labor violations.   | 2010 – 2016       |
|                 | Disaggregate and publish the number of child labor complaints received by the hotline.   | 2016              |

**Table 11. Suggested Government Actions to Eliminate Child Labor, Including its Worst Forms (cont)**

| Area                | Suggested Action   | Year(s) Suggested |
|---------------------|--|-------------------|
| Coordination        | Publish information about child labor coordination activities, including meetings during the year and efforts to address child labor issues.   | 2016              |
| Government Policies | Integrate child labor elimination and prevention strategies into the UNDAF, National Education Sector Support Program, Kenya National Social Protection Policy, and Policy for Alternative Provision of Basic Education and Training.  | 2013 – 2016       |
|                     | Include a budget in the National Plan of Action Against Sexual Exploitation of Children in Kenya.  | 2013 – 2016       |
| Social Programs     | Update data on child labor by conducting a national child labor survey.  | 2014 – 2016       |
|                     | Ensure that children can attend primary school, either by ensuring that school is free of fees or by subsidizing or defraying the cost of school fees, books, and uniforms. Improve access to education by training new teachers, ensuring that pregnant girls can remain in school, addressing sexual abuse in schools, and ensuring that children are registered at birth. | 2010 – 2016       |
|                     | Expand existing programs to address the scope of the child labor problem, including children engaged in commercial sexual exploitation.  | 2009 – 2016       |

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