

MEMORANDUM

FROM: PRINCIPAL SECRETARY
MINISTRY OF LABOUR AND SOCIAL SECURITY

TO: PRINCIPAL SECRETARY
MINISTRY OF FOREIGN AFFAIRS AND
INTERNATIONAL CO-OPERATION

Attention: AMBASSADOR
WASHINGTON, DC

DATE: 16TH JANUARY, 2013

Our Ref: LA/1A VOL II

**RE: PROGRESS REPORT ON THE ELIMINATION OF CHILD
LABOUR IN THE COUNTRY, SWAZILAND.**

Please refer to your memorandum SEW 6/1/2 dated 2nd January, 2013, on the above cited matter.

Following consultations with the relevant stakeholders, we submit the attached response for onward transmission to His Excellency the Ambassador of the Kingdom of Swaziland to the United States of America. The report mainly highlights new developments and should you have additional questions, we would be happy to provide clarification.

Thanking you in advance for your co-operation.

NOMATHEMBA HLOPE
PRINCIPAL SECRETARY

PROGRESS REPORT ON THE ELIMINATION OF CHILD LABOUR IN THE COUNTRY, SWAZILAND

INTRODUCTION:

The country has taken far reaching measures to address issues of child labour. Notwithstanding the financial crisis facing the Government in 2011/12, Government's efforts to prioritize education continue. The Children's Protection and Welfare Act of 2012 and the Free Primary Education Act No. 1 of 2010, were promulgated into law. The Employment Act No.5 of 1980 has been extensively redrafted and the Employment Bill has closed some of the gaps identified during 2011. These include clear provisions on employment of children and young people. It also gives powers to the Minister, following consultations with the Labour Advisory Board (LAB) to specify dangerous and hazardous work for a child or young person.

A key development during this reporting period is that the Federation of Swaziland Employers/Chamber of Commerce has developed and published an Employers Guide on Elimination of Child Labour. The Guide was developed with assistance from the Bureau for Employers Activities (ACT/EMP) and the International Organization of Employers (IOE); and is adapted from the ILO – ACT/EMP Guides for Employers on Eliminating Child Labour. The objective of the Guide is to help Employers to understand and take the necessary action to eliminate child labour. This is a commendable contribution by Employers and demonstrates the partnership between Government and Employers.

INSTITUTIONAL MECHANISMS FOR CO-ORDINATION AND ENFORCEMENT:

In addition to the developments reported in 2011, it is important to highlight that a National Task Team has been established and tasked to develop an Action Programme on the Elimination of Child Labour and the Worst Forms of Child Labour, with the Ministry of Labour and Social Security as the lead Ministry, to also provide secretariat through the Child Labour Unit. The ILO IPEC has been offering financial and technical support for this project; however other stakeholders like UNICEF have shown keen interest by also offering financial support for this programme until its adoption, which should be before the end of 2013 and throughout its implementation, 2013-2017.

The Action Programme on the Elimination of Child Labour is the key guiding instrument to deal with the fight against child labour in the country, and it will be

spearheaded by the Child Labour Unit, which was established in 2012 under the Ministry of Labour and Social Security. Relevant stakeholders including Government ministries have been consulted and they nominated members to form part in the National Task Team. All government Ministries dealing with children such as Ministry of Education and Training, the National Children's Co-ordination Unit and the Social and Welfare Department under the Deputy Prime Minister's Office have a role to play in the Action Programme. Laws relevant to children have to be monitored through the time bound programme, to ensure that they have an impact.

The Ministry of Labour and Social Security through the Child Labour Unit, the Deputy Prime Ministers office through the National Children's Coordination Unit and the Department of Social Welfare remain the agencies designated to enforce labour laws affecting children. The Department of Labour currently employs 32 Labour Inspectors. Although the issues of child labour are included in the inspection template, there are no inspections reports specifying child labour since most of the activities involving child labour take place in private households hence not inspected like the other sectors. Therefore the Ministry relies on complaints reported where in some instances issues of exploitation of children are uncovered. However, it is hoped that the Industrial Relations (Amendment) Act No. 6 of 2010, which includes domestic service in a private home as an undertaking, is the first step in addressing issues of child labour in households.

The People Trafficking and people Smuggling Unit under the Prime Minister's office has two reported and prosecuted cases whereby one of the cases was conviction. On the other case there was lack of evidence hence it was dropped

LAWS AND REGULATIONS ON THE WORST FORMS OF CHILD LABOUR

A number of Acts have been enacted into law in 2012. These include:

(i) The Children's Protection and Welfare Act of 2012 which addresses the issue of employment of children among other things. The Act also stipulates that no person shall engage a child in exploitative labour that deprives or hinders the child's access to health, education or development. It specifies the minimum age for the employment of children and participation in night work, and prohibits work by children in industrial undertakings. It is also a comprehensive legislation on children's issues.

(ii) The Free Primary Education Act No.1 of 2010 provides for the implementation of the right to free primary education in public schools and other matters incidental thereto.

Some critical Bills have also been drafted, which also address issues of child labour. These include:

(a) The Sexual Offences and Domestic Violence Bill of 2009 which covers the issues of sexual act with a child, prostitution of children and the minimum age of criminal capacity is still in Parliament. The bill protects children against commercial sexual exploitations as well as their use in pornography. The Bill is currently before Parliament. The Senate Portfolio Committee recently invited the public to provide their comments on the Bill

(b) The Employment Act No. 5 of 1980 has been extensively redrafted and the Employment Bill is currently with the Labour Advisory Board; Part III makes provisions which prohibit child labour and the employment of young persons. The Bill also covers employment of a child or young person. It also gives the Minister power after consulting the Labour Advisory Board, by notice in a gazette to specify particular types of work contemplated to be dangerous or hazardous for a child or young person. The Bill covers employment of a child or young person in all sectors, not only in the industrial sector.

GOVERNMENT POLICIES ON THE WORST FORMS OF CHILD LABOUR:

The National Children's Policy (2009) was approved by Government and is currently being operationalised through the enactment of the Children's Protection and Welfare Act and the National Plan for Action for Children (2011- 2015). The policy also addresses the issues of child labour, including children engaged in harmful, hazardous and exploitative work, which is detrimental to the development of a child.

The National Social Development Policy (2010) provides for the protection of all children in particular OVC, street children, children's incarcerated parents, children in conflicts with the law and children and youth with disability.

The Education Sector Policy (2011) has been approved by Cabinet and is under implementation. It provides for equitable access to education and for all learners. The Plan of Action is being prepared by the Ministry of Education and Training.

SOCIAL PROGRAMMES TO ELIMINATE OR PREVENT WORST FORMS OF CHILD LABOUR

The Government through the Ministry of Education and Training has embarked on a number of programmes to ensure that all children are at school:

(i) There is Free Primary Education (FPE), which is up to Grade 5 in 2013; and Government pays E560.00 for each for each child in school. FPE will progress to grade 7 in 2015. The implementation of this programme is supported by the Free Primary Education Act No. 1 of 2010, which among other things compels parents to take children who are eligible, to school. It also provides guidelines to be followed by schools and governance structures in seeking authority from the Ministry of Education and Training to charge top-up fees.

(i) Provision of books and stationery by Government for all public primary school children up to grade 7.

(ii) A Government bursary scheme continues to provide funding for orphaned and vulnerable children in secondary and high schools.

(iii) A Government Scheme continues to provide funding for orphaned and vulnerable children in Grade 6 and 7 in secondary and high schools.

(iv) Through reforms in the payment of fees for OVCs, Government is piloting the electronic transfer of fees to schools in order to ensure timely payment of fees.

(v) In an effort to make education affordable, the Government is also looking to harmonize fees. However, due to many factors such as school enrolment, placement and curriculum a consultant has been engaged to undertake the assignment and advise Government.

(vi) School Feeding Scheme – Government, working together with WFP and the Global Fund, provides school feeding in an attempt to retain children in public schools.

(vii) Out of School Youth Programmes – Sebenta: There are two types of out of school youth. There are those who went to school but did not pass well; and those who either did not go to school at all or dropped out in the elementary levels of primary school. The first group is not catered for by the Sebenta out of School Youth programmes. The second group is catered for by Sebenta,

through non-formal primary education, which is an alignment to the formal primary education and skills training programme at Sebenta.

- (viii) Disability grants by the Deputy Prime Minister’s Office also benefit children with disability.
- (ix) Setting up of residential child care facilities by Faith Based Organisation (FBO), NGOs and governments. These are monitored by the Department of Social Welfare which has also formulated the guide lines on alternative care (2010)
- (x) Setting up of Juvenile Industrial School by the Correctional Services. The school offers education form Grade 1 to Form 5. The school is supported by UNICEF, World Vision and Government through the Ministry of Education.

It is worth noting however, that the Ministry of Education and Training is taking a number of measures to improve education standards and improve school governance in the country. Data would be collected from time to time to study and monitor new measures introduced. Support financially and/or technically to carry our activities is also needed. In addition, the ministry needs to revise and align its legislation to be applicable to the present day challenges.

Status report on actions taken by Government to eliminate the worst Forms of child labour

Area	Actions	Status
Laws and Regulations	Enact legislation to provide for minimum age for work in all sectors, prohibit the worst forms of child labour, include list of hazardous occupations and extend protections to children in non-contract work in non-industrial undertakings.	<ul style="list-style-type: none"> - The Children’s Protection and Welfare Act of 2012 has been promulgated into law - The Employment Act No. 5 of 1980 has been extensively redrafted. The Employment Bill includes provisions which prohibit child labour and employment of young persons. It also gives the Minister powers, following consultations with the LAB, to issue a notice in a gazette specifying particular work contemplated to be dangerous and hazardous for a child or young person
	Establish a compulsory education age that is consistent with the minimum age of employment	The country does not have an Act that articulates compulsory education. The Free Primary Education Act compels parents to take children (who are eligible) to school

	Enact the Sexual offenses and Domestic Violence Bill to further protect children from commercial sexual exploitation and prostitution	The Bill is before Parliament and the Senate Portfolio Committee has just held public debates on the Bill
	Enact legislation to prohibit using, procuring or offering children for illicit activities	
Co-ordination and Enforcement	Clarify the roles and report the activities of the PACC and the Inter-Agency Task Force for the prevention of people Tracking and People Smuggling	The Inter-Agency Task Force and the National Task Team have clear and distinct terms of reference.
	Explore mechanism to include the informal sector in the country's enforcement processes	There are community based protection structures provided for in the National Children's policy and the national Plan of Action for Children.
	Develop a system to record child labour complaints	A Child Labour Unit has been established under the Ministry of Labour and Social Security. The Unit will develop the system to produce an annual report on child labour complaints.
Policies	Implement the Action programme for elimination of Child Labour	Programme of Action for 2013-17 has been developed and should be officially launched before the end of 2013
	Increase efforts to provide free and compulsory education, including expanding free primary education beyond Grade 4	FPE in 2013 is at Grade 5 and will progress to Grade 7 in 2015. Government provides stationery and books for all children in public schools up to Grade 7
	Collect data on the worst forms of Child Labour	This will be assigned to the Child Labour Unit
	Assess the National Children's Policy, the National Social Development Policy, the Education Plan and the National Development Strategy and their impact on the worst forms of child labour	
Social Programmes	Expand and improve programmes to combat the worst forms of child labour including:	
	Integrate a child labour component into existing social programmes to support to all children, especially vulnerable children	<ul style="list-style-type: none"> - Programmes for out of school youth, feeding scheme, harmonization of fees, educational grants for OVCs (etc) all focus on empowering children through education. - There are also on-going campaigns by Government

		and NGOs on children's rights, which strengthen the campaign against child labour.
	Prioritize spending on education and social protection programmes, and provide timely delivery of school fees for OVC to avoid disruptions of children's schooling	<ul style="list-style-type: none"> - Education continues to receive the lion's share of the national budget. - Government is piloting cash transfers to schools to ensure timely payment of fees for OVCs