 **Tanzania**  

ECPAT International has developed [a legal checklist](https://ecpat.org/wp-content/uploads/2021/09/SECTT-Checklist_ENG-1.pdf) for governments providing guidance for legal interventions and measures to adopt in order to improve their national legal frameworks. This will help to effectively address the crime of sexual exploitation of children in travel and tourism, including its online elements.

The legal checklist was developed based on the recommendations of the first [Global Study](https://ecpat.org/wp-content/uploads/2021/08/Global-Report-Offenders-on-the-Move.pdf) on sexual exploitation of children in the context of travel and tourism. Following the development of this legal checklist, ECPAT International conducted country legal analysis for Tanzania and other countries in Africa, as well as Southeast Asia, Asia and the Americas.

The country analysis serves as a baseline to indicate and track the implementation status of the legal interventions within and across the four regions. It provides governments with clear directions for improving their actions with respect to child protection against sexual exploitation in the context of travel and tourism, including its online elements.

The table below allows easy assessment of existing legislation against the 24 measures of the legal checklist. It will be updated as the laws and policies change. An [explanatory note](https://ecpat.org/wp-content/uploads/2021/08/SECTT-Checklist_ENG_Explanatory-note.pdf) and an [assessment matrix](https://ecpat.org/wp-content/uploads/2021/09/Assesment-Matrix_2021SEP_ENG_v2.pdf) can be consulted for further reference.

Note:   
*The Cybercrimes Act applies to Mainland Tanzania as well as Tanzania Zanzibar (Section 2).*

*The Anti-Trafficking Act applies to Mainland Tanzania as well as Tanzania Zanzibar (Section2).*

*The Extradition Act applies to Mainland Tanzania as well as Tanzania Zanzibar (Section 2).*

*The Immigration Act applies to Mainland Tanzania as well as Tanzania Zanzibar (Section 2).*

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|  | **Recommendations** | **Implemented** | **Legislation** |
| 1. | Establish by law **extra-territorial jurisdiction**, within the parameters of Article 4 OPSC, for all offences of sexual exploitation of children, including those occurring in the online environment. | Partially | The Penal Code of Tanzania, section 6, stipulates that the courts will be competent for any offence committed by a citizen of Tanzania, in any place outside Tanzania.  The Penal Code of Tanzania doesn’t establish passive extraterritorial jurisdiction.  Section 5 of the Penal Code of Zanzibar establishes that every person who within the jurisdiction commits an offence partly within and partly beyond the jurisdiction will be tried and punished under the Code.  Section 30 of the Cybercrimes Act establishes that the court will have jurisdiction where an act or omission constituting an offence is committed wholly or in part:   * within the United Republic of Tanzania; * by a national of the United Republic of Tanzania; * by a national of the United Republic of Tanzania who resides outside the United Republic of Tanzania, if the act or omission would equally constitute an offence under a law of that country; or * (e) by any person, irrespective of his nationality or citizenship, or location, when the offence is committed using a computer system, device or data located within the United Republic of Tanzania; or directed against a computer system, device or data or person located in the United Republic of Tanzania.   The Cybercrimes Act doesn’t establish passive extraterritorial jurisdiction. |
| 2. | Include in extradition treaties the sexual exploitation of children as **extraditable offences** and apply when appropriate the rules of article 5 OPSC, regardless the nationality of the (alleged) offender. | Partially | Only the offences which are mentioned in the Extradition Act are extraditable in Tanzania and Zanzibar. The Extradition Act doesn’t include SEC-related offences as extraditable offences.  However, the Cybercrimes Act amended the Schedule to the Extradition Act to make cybercrimes extraditable (Section 59). |
| 3. | Do NOT require the principle of **double criminality** for proceeding with extraterritorial jurisdiction or extradition for sexual offences against children. | No | The Cybercrimes Act applies the principle of double criminality in cases of extraterritorial jurisdiction.  No provisions have been found on the application of the principle of double criminality in cases of extradition (mentioned in point no.2). |
| 4. | Abolish **statutory limitations** for the prosecution of ALL offences of sexual exploitation of children. | Yes | There are no statutory limitations for the prosecution of offences of sexual exploitation of children. |
| 5. | Set up **conditions for any travel** by persons convicted of sexual exploitation of children. | Partially | The Immigration Act prohibits the entry of a foreigner who, not having received a free pardon, has been convicted in any country other than Tanzania of murder or any offence for which a sentence of imprisonment has been passed for any term and who, by reason of the circumstances connected therewith, is considered by the Minister to be an undesirable immigrant.  No provisions on the prohibition of persons convicted of sexual exploitation of children to leave the country have been found. |
| 6. | Ensure **consistency in the definition of a ‘child’** as anyone under the age of 18 for all crimes of sexual exploitation, regardless of the age of sexual consent. | Yes | The Child Act of Mainland Tanzania (Section 4), the Children’s Act of Zanzibar (Section 2), the Anti-Trafficking in Persons Act (Section 3) and the Cybercrimes Act (Section 3) define a child as any person below the age of 18 years. |
| 7. | Ensure that the **age of sexual consent** for both males and females is 18 and a close in age exemption (up to 3 years) is provided for consensual sexual relationships between adolescents in order to allow voluntary, well-informed and mutual sexual contact between close in age peers and to prevent criminalization of young people in willing sexual relationships. | No | The provisions of the penal codes of Mainland Tanzania (Section 130(2)(e) and Zanzibar (Sections 108(2)(e) and 115). set the age of sexual consentfor girls at 18. However, men are exempt from criminal liability for raping children if they are married to them. Moreover, the offence of “rape” can only be committed by male persons against women and female children64 and the age of sexual consent has not been explicitly identified for males. Nevertheless, the Penal Code of Mainland Tanzania does criminalise certain sexual acts with boys, such as sexual assault(Section 135) and grave sexual abuse which does not amount to rape(Section 138C), while the Penal Code of Zanzibar creates the offence of “defilement” of a boy (Section 115).  Neither code provides a close-in-age exemption for consensual sexual activities between peers. |
| 8. | Have a law or regulation establishing a **mechanism for centrally registering sex offenders** that has been implemented/setup. | No |  |
| 9. | Establish **bail conditions** that prohibit individual accused of sexual offences against children from traveling outside of the country. | Partially | Section 148 of the Criminal Procedure Act of Tanzania allows the court to grant bail to any person arrested. Where a court decides to admit an accused person to bail, it shall impose the following conditions on the bail:  “*(a) surrender by the accused person to the police of his passport or any other travel document; and (b) restriction of the movement of the accused to the area of the town, village or other area of his residence.*”  Section 151 of the Criminal Procedure Act of Zanzibar stipulates that sexual offences are part of the bailable offences. No conditions are required. |
| 10. | Provide in law that the **mere attempt** to commit a crime of sexual exploitation of children is criminalised. | Partially | Section 26 of the Cybercrimes Act punishes the attempt to commit an offence under the Act. The person will be liable on conviction to a fine not less than one million shillings or to imprisonment for a term not less than six month or to both. |
| 11. | Impose more severe sentences for **reoffending** in case of sexual exploitation against children, e.g. by defining reoffending as an aggravating circumstance, regardless of whether the crimes were perpetrated abroad or in-country. | No | The Tanzanian legislation does not impose more severe sentences for recidivists who commit SEC-related offences.  However, the Anti-Trafficking in Persons Act allows courts to impose severe penalties on persons who commit a second or subsequent offence under the Act (Section 13). |
| 12. | Provide for **mandatory reporting** for particular professions that have likelihood to have contact with kids who might disclose. | Yes | Section 95 of the Law of the Child Act (Tanzania) states that any member of the community who has evidence or information that a child's rights are being infringed shall report the matter to the local government authority of the area. A person who fails to report is liable to be punished with a fine of at least fifty thousand shillings(approx. US$22 as of October 2020) or to an imprisonment term of 3 months or both.  In addition, the Tanzanian Education Act as amended by the Law of the Child Act (Section 169), stipulates that all teachers, craftsmen and trainers in Mainland Tanzania are under the general obligation to report concerns or evidence of child abuse committed by any person to the appropriate social welfare officer.  Section 20 of the Children’s Act (Zanzibar) states that any person who performs professional or official duties with respect to children, including, but not limited to, teacher, doctor, nurse, legal practitioner, pharmacist, religious leader, etc. who has evidence or information that a child's rights are being infringed shall report the matter to the local government authority of the area. If any person fails to comply with the mandatory reporting duties under this Act he or she shall be subjected to disciplinary action in accordance with their professional code of conduct. |
| 13. | Establish obligatory government-regulated child protection standards for the tourism industry for example, attach responsibility to an appropriate regulatory authority and/or implement industry specific **national codes for child protection** as a legal requirement for the travel and tourism industry to operate. | No |  |
| 14. | Ensure the liability of travel and tourism businesses (in operations and supply chains) for criminal conduct including:   * Organising travel arrangements or transportation that are explicitly or implicitly meant to create or facilitate opportunities to engage (involve) children in sexual activities; * Procuring, aiding or abetting the exploitative sexual conduct with a child; * Advertising or promoting sexual exploitation of children;   Benefitting, by any means, from any form of sexual exploitation of a child (or children) in the context of their travel and tourism business. | Yes | The Anti-Trafficking Act includes in its definition the offence of trafficking in person (Section 4 (d)): “*anyone who undertakes or organizes sex tourism or sexual exploitation*”.  Section 5 of the Anti-Trafficking Act criminalises, to a fine of not less than two million shillings (approx. US$826 as of October 2020) but not more than fifty million shillings (approx. US$21,552 as of October 2020) or to imprisonment for a term of not less than one year but not more than seven years or to both, a person who promotes, procures or facilitates the commission of the trafficking in person, including anyone who:   * knowingly leases or subleases, uses or allows to be used any house, building or establishment for the purpose of trafficking in persons; * advertises, publishes, prints, broadcasts or distributes, or causes the advertisement, publication, printing, broadcasting or distribution by any means, including the use of information technology or any brochure, flyer or any propaganda material that promotes trafficking in persons; * facilitates or assists in the exit and entry from or to the United Republic a person who is in possession of unissued, tampered or fraudulent traveling documents for the purpose of trafficking in persons; * knowingly benefits from, financial or otherwise, or makes use of, the labour or services of a person held under a condition of involuntary servitude, forced labour or slavery.   In addition, Section 7 establishes that a person who acts as an intermediary for the purpose of trafficking in persons commits an offence. The person shall, on conviction, be liable to a fine not less than four million shillings (approx. US$1,724 as of October 2020) but not more than one hundred and fifty million shillings (approx. US$21,551 as of October 2020) or to imprisonment for a term of not less than seven years but not more than fifteen years or to both. Under the Act, "an intermediary" means a person who knowingly participates in or is concerned with any aspect of trafficking in persons. |
| 15. | Criminalise the **grooming of children for sexual purposes** (often called ‘solicitation’ in law) including through Internet and other communication technologies to facilitate either online or offline sexual exploitation. | No |  |
| 16. | Establish legislation requiring for a **criminal background check** for every person (national or non-national) applying for work with or for children or who is currently working with or for children. Introduce legislation prohibiting convicted sex offenders to hold positions involving or facilitating contact with childre | No | It doesn’t seem mandatory in Tanzania to provide a criminal record before starting any employment.  However, the Law of the Child Act (Tanzania), Section 148, stipulates that convicted sex offenders are prohibited from holding positions involving or facilitating contact with children. Convicted sex offenders or persons guilty of committing offences against children cannot be employed in day care centres or a crèche.  A similar provision is contained in Zanzibar’s Children’s Act, according to which convicted sex offenders cannot be employed in residential institutions or day care centres for children or be allowed to become foster parents (Section 132). |
| 17. | Regulate and monitor the use of volunteers (including in **‘voluntourism’**) in settings and activities that involve direct contact with children, particularly prohibiting visits to orphanages/residential care settings in favour of redirecting the industry towards solutions that support community-based care. | No |  |
| 18. | Ratify and implement relevant **regional and international instruments** related to child’s rights and sexual exploitation of children. | Partially | * Convention on the Rights of the Child - Ratified in 1991 * Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography - Ratified in 2003 * Optional Protocol to the Convention on the Rights of the Child on a Communication Procedure - Not ratified * ILO Convention on the Worst Forms of Child Labour (No. 182) - Ratified in 2001 * UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children - Ratified in 2006 * The United Nations’ World Tourism Organisation’s (UNWTO) Framework Convention on Tourism Ethics - Not ratified * Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) - Not Ratified * Council of Europe Convention on Cybercrime (Budapest Convention) - Not ratified * African Union Charter on the Rights and Welfare of the Child - Ratified in 2003 * African Union Convention on Cyber Security and Personal Data Protection - Not ratified |
| 19. | Establish **protection measures** for child victims at any stage of the legal process against the suspected offender. | Partially | The Law of the Child Act (Tanzania) establishes Juvenile Courts that have to apply protection measures for child victims such as providing representation by an advocate (Section 99). The law does not make explicit difference between national and non-national child victims, but it does not even clearly state if relevant provisions would be applied to non-nationals.  The Children’s Act (Zanzibar), Section 18, establishes that Children’s courts should follow the principle of the best interest of the child. A Children’s court can order a medical practitioner, psychologist, education or developmental practitioner to assist the child during the proceedings. The law does not make explicit difference between national and non-national child victims, but it does not even clearly state if relevant provisions would be applied to non-nationals. |
| 20. | Establish **child-friendly interviewing practices by professionally trained police.** | Partially | The Anti-Trafficking in Persons Act provides for  in-camera proceedings (Section 9).  The law does not make explicit difference between national and non-national child victims, but it does not even clearly state if relevant provisions would be applied to non-nationals.  The Law of the Child Act (Tanzania) provides that proceedings in Juvenile courts shall be held in camera and in an informal manner in the presence of a social welfare officer and parent/guardian/next of kin (Section 99) as further elaborated in details in the Juvenile Court Procedure. The law does not explicitly indicate whether such provisions apply to non-national child victims.  A Child Advocacy Center does not exist in the country. |
| 21. | Ensure that national legislation provides the **right for child victims to receive support in their recovery and rehabilitation**, including accessing re-integration services. | No | In Mainland Tanzania and Zanzibar, the national legislation does not provide for specific programmes for support and reintegration for child victims.  The Anti-Trafficking in Persons Act states that the Government shall establish and coordinate preventive, protective and rehabilitative programmes for victims (Section 24). In addition, Section 17 specifies that the best interest of the child shall be paramount in any assistance given to rehabilitation, counsel or re-integration of a child victim of trafficking. |
| 22. | Establish a **national reporting mechanism (e.g. hotline)** that coordinates access to services, and helps to overcome reluctance to report sexual exploitation of children. | Yes | A national Child Helpline (116) – a toll-free service is available across all networks in Tanzania mainland and Zanzibar. The service is a lifeline for children who are suffering from or vulnerable, to report violence and abuse or seek information – as well as family and community members who call the helpline to report children at risk. |
| 23. | Create **data retention and** preservation laws, regulations and procedures, to ensure the retention and preservation of digital evidence and enable cooperation with law enforcement which applies to ISPs, mobile phone companies, digital social media and communication companies, cloud storage companies, based in/operating in national jurisdiction. | Yes | Section 33 of the Cybercrimes Act stipulates that an order can be issued to require a person in control of a device or computer data to preserve the device or computer data for a period not exceeding fourteen days.  Section 34 establishes that: “*Where there is a reasonable ground that a computer data is required for the purpose of investigation, a police officer in charge of a police station or a law enforcement officer of a similar rank may issue an order to any person in possession of the data for:*  *(a) disclosure, collection or recording of the traffic data associated with a specified communication during a specified period; or*  *(b) permitting and assisting the law enforcement officer to collect or record that data*.”  The section defines, “traffic data” as: “(a) information relating to communication by means of a computer system; (b) the information generated by computer system that is part of the chain of communication; and (c) information that shows the communication’s origin, destination, route, time, size, duration or the type of underlying service.”  In addition, Section 35 states that if the content of an electronic communication is required for the purposes of investigation, an order may be issued to collect, record, permit or assist the relevant authority to collect or record content data associated with specified communications transmitted by means of a computer system, or to collect or record the computer data through technical means.  Section 3 defines “electronic communication” as: “any transfer of a sign, signal or computer data of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic, photo optical system or in any other similar form”; “Computer data” as: any representation of facts, concepts, information or instructions, in a form suitable for processing in a computer system, including a program suitable to cause a computer system to perform a function; and “Devices” as: “(a) a computer program, code, software or application; (b) component of computer system such as graphic card, memory card, chip or processor; (c) computer storage component; (d) input and output devices”. |
| 24. | Ensure that national legislation provides the **right for all child victims of sexual exploitation to seek compensation** in national courts from convicted perpetrators who harmed them and/or through state-managed funds. | Yes\* | The Penal Code of Tanzania (Section 31) and the Criminal Procedure Act of Zanzibar (Section 14) establish the possibility for victims to seek compensation.  The Cybercrimes Act establishes the possibility for victims to seek compensation (Section 48). The law does not make explicit difference between national and non-national child victims, but it does not even clearly state if relevant provisions would be applied to non-nationals.  The Anti-Trafficking in Persons Act establishes the possibility for victims to seek compensation (Section 15). The law does not make explicit difference between national and non-national child victims, but it does not even clearly state if relevant provisions would be applied to non-nationals. In addition, child victims of trafficking are eligible to seek compensation from a fund called the ‘Anti-Trafficking Fund’ (Section 27). It seems that non-national victims of OCSEA are also eligible to seek compensation through this fund (Section 27 (d)). |

**Tanzania - Legislation**

[The Cybercrimes Act](https://tanzlii.org/tz/legislation/act/2015/14-0)

[The Anti-Trafficking in Persons Act (Tanzania & Zanzibar)](https://sherloc.unodc.org/res/cld/document/tza/a/The-Anti-Trafficking_in_Persons_Act_2008.pdf)

[The Law of the Child Act (Tanzania)](http://www.mcdgc.go.tz/data/Law_of_the_Child_Act_2009.pdf)

[The Children’s Act (Zanzibar)](http://ilo.org/dyn/natlex/docs/ELECTRONIC/101043/121579/F1010129621/TZA101043.pdf)

[The Penal Code (Zanzibar)](http://www.zanzibarassembly.go.tz/act_2018/act_6.pdf)

[The Penal Code (Tanzania)](https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TZA_penal_code.pdf)

[The Sexual Offences Special Provisions (Tanzania)](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/67094/63635/F532037758/TZA67094.pdf)

[The Criminal Procedure Act (Tanzania)](https://www.tanzania.go.tz/egov_uploads/documents/CRIMINAL%20PROCEDURE%20ACT.pdf)

[The Criminal Procedure Act (Zanzibar)](https://www.zanzibarassembly.go.tz/act_2018/act_7.pdf)

[The Extradition Act](https://www.tanzania.go.tz/egov_uploads/documents/EXTRADITION%20ACT.pdf)

[The Immigration Act](https://www.refworld.org/docid/3ae6b56bc.html)