

# HOW VOLUNTOURISM MAY FACILITATE THE SEXUAL EXPLOITATION OF CHILDREN: KEY FINDINGS FROM LEGAL ANALYSIS OF 12 COUNTRIES

## INDICATOR/COUNTRY<sup>1</sup>

Indicator / Country	Assessment result	Legal Analysis Findings	Implementation
<i>Indicator: Child protection standards for the travel and tourism industry exist</i>			
Bolivia	No	In Bolivia, there is no national code of conduct to protect children from sexual exploitation in travel and tourism. The regulatory authority is the Ministry of Culture and Tourism of the Plurinational State of Bolivia.	Bolivia has been working towards developing a national code of conduct to protect children from sexual exploitation in the context of travel and tourism.
Brazil	Partially	In 2019, Brazil adopted a voluntary Code of Conduct against sexual exploitation of children in tourism. Signatories receive a seal of recognition for a two-year period on adoption of the Code of Conduct, which may be used in marketing. Companies are required to report on their activities to the Ministry of Tourism, and the Ministry of Women, Family and Human Rights is responsible for evaluating the implementation of the Code of Conduct.	The Ministry of Tourism and Ministry of Women, Family and Human Rights are responsible for dissemination of the code and developing training. The ordinance that establishes the code provides for the creation of alliances between government and civil society organisations to support implementation. No budget has been allocated to support implementation, but there are challenges with resourcing and collaboration with state tourism bodies. Brazil had planned to implement national events and conferences on the Code of Conduct in 2020, however it is unclear whether this proceeded. <sup>2</sup>
Cambodia	No	Cambodian law does not have obligatory government-regulated child protection standards for the tourism industry.	However, Article 56 of the Law on Tourism also prohibits minors from entering premises of adult entertainment sites, and Article 57 requires managers of adult entertainment centres to ban and take reasonable measures to ensure that no minors are present in the premises.
India	Partially	In 2010, India launched a Code of Conduct for Safe and Honourable Tourism to “aid the prevention of prostitution, sex tourism and forms of sexual exploitations like assaults and molestations in tourism to safeguard the safety of persons, in particular women and children”. Signatories commit to “Act in a manner that protects the dignity and freedom against exploitation of persons especially women and children and facilitate prevention of incidences of sexual molestation, harassment of their guests and provide assistance in case of an untoward incident”. However, the Code only binds signatories.	The Code of Conduct is not a legally binding instrument, rather, it is a set of guidelines for the tourism industry <sup>3</sup> that offers a sense of safety and security to tourists, with a secondary goal of protecting and promoting tourist arrivals. <sup>4</sup>  The pledge is mandatory for all service providers who apply for recognition or renewal of recognition with the Ministry. <sup>5</sup> The signatories can bestow the logo on their members who sign the pledge, nominate focal points, sensitise staff and display the Code prominently on their premises.

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India	Partially		Several large member organisations are signatories, including: Adventure Tour Operators Association of India (ATOAI), Association of Domestic Tour Operators of India (ADTOI), The Federation of Hotel & Restaurant Associations of India (FHRAI), The Hotel Association of India (HAI), Indian Association of Tour Operators (IATO), India Convention Promotion Bureau (ICPB), Indian Heritage Hotels Association (IHHA), Indian Tourist Transport Association (ITTA), Pacific Asia Travel Association (PATA). <sup>6</sup>
Mexico	Yes	In 2012 Mexico implemented a National Code of Conduct for officials in the tourism sector. The Code oversees a series of actions for the tourism industry, with the aim of raising awareness, disseminating preventative measures and reporting of cases of human trafficking and sexual or labour exploitation of children and adolescents. However, adhesion to the code is entirely voluntary.	A 2017 event with government and non-government representatives resulted in a National Commitment for Sustainable Tourism for Development, which included a commitment to actions in the National Code of Conduct for the Protection of Children and Adolescents in the Travel and Tourism Sector. <sup>7</sup>
Peru	Yes	In 2018, Peru implemented legislation (Law No. 30802) mandating the control of access of children and adolescents to hotels and other accommodation providers. The law is regulated by the Ministry of Foreign Trade and Tourism and provincial governments.	Additionally, Peru has a mandatory national Code of Conduct which specifically lists crimes related to the sexual exploitation of children and requires reporting of any type of suspected criminal activity taking place in the context of travel and tourism. <sup>8</sup> All legal representatives of tourism service providers must sign a declaration of adherence to the national code, and failure to comply may result in revocation of licences and penal sanctions for individuals. <sup>9</sup> The Peruvian Code also requires accommodation providers to report any situation linked to sexual exploitation of children, and to display informational materials. Although Peru does not have a specific procedure for reporting cases of sexual exploitation of children in travel and tourism, the Ministry of Women and Vulnerable Populations has produced a guide for identification and reporting. <sup>10</sup>
Sri Lanka	No	<p>Sri Lanka's National Child Protection Authority (NCPA) is required to "engage in dialogue with all sections connected with tourism with a view to minimizing the opportunities for child abuse" [Section 14(q)].</p> <p>Although the NCPA conducts awareness campaigns to raise awareness among tourism industry stakeholders, there is no specific national code for child protection for the tourism industry.</p>	<p>Sri Lanka's Policy on Elimination of Child Labour (2017) indicates that the sexual exploitation of children in tourism is of high concern, and the government of Sri Lanka has indicated that a national database of complaints received by police relating to sexual exploitation has been established.<sup>11</sup></p> <p>A 2021 ILO review of the Worst Forms of Child Labour Convention (1999) features reference to the Sri Lankan governments work on awareness raising among the public and tourists relating to child safe tourism including child protection training for hotel staff. The National Child Protection Authority has initiated targeted interventions relating to child sex tourism in two coastal regions and has implemented programs to combat child sex tourism for plantation, education and health sector staff.<sup>12</sup></p>

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<i>Indicator: Criminal background checks are strict requirements for national and non-nationals working in direct contact with children</i>			
Bolivia	No	In Bolivia, although the criminal background check is not required by state regulations, all public or state officials and NGOs workers need to certify that they do not have a criminal or violent record.	This is regulated by Consejo de la Magistratura de Bolivia as part of Certificado de Registro Judicial de Antecedentes Penales (REJAP) and Certificado de No Violencia (CENVI) requirements.
India	Partially	<p>India's 'POCSO Rules' (2020) state that "any institution housing children or coming in regular contact with children including schools, crèches, sports academies or any other facility for children must ensure a police verification and background check on periodic basis, of every staff, teaching or non-teaching, regular or contractual, or any other person being an employee of such Institution coming in contact with the child". However, volunteers do not seem to be included in such provision.</p> <p>There is no law or legal provision that prohibits convicted sexual offenders from holding positions involving or facilitating contact with children.</p>	<p>Under POCSO rules, schools are required to have individual child protection policies covering background checks and police verification of school employees; establish clear boundaries around staff-child interaction and train staff on child protection. However, there is no criminal liability if an institution does not implement these requirements.<sup>13</sup></p> <p>Background checks and police verification are limited in their effectiveness as, like globally, many offenders have never come into contact with the judicial system, so these function largely as deterrents. There is evidence of schools who become aware of sexual abuse by staff either terminating or transferring employment without reporting or disclosing the offences. Parents are also unwilling to register police complaints, instead opting to remove their child from the school.<sup>14</sup></p>
Indonesia	Partially	<p>Indonesian law does not explicitly prohibit convicted sex offenders from holding positions involving or facilitating contact with children but contains a generic provision that allows the deprivation of the right to be a legal manager or a counsellor and to be a guardian, co-guardian, curator or co-curator over other children as well as his or her own. (Article 35(4) of the Penal Code).</p> <p>Moreover, every person applying for a job in Indonesia is usually required by both private and government employers to obtain a Police Record Certificate (SKCK) explaining whether a person has been involved in a crime in his/her life. The certificate is issued by the police at the request of the job seeker, and although not required by law, has become customary in Indonesia.</p>	The SKCK does not indicate whether an applicant has a criminal record, it only confirms that the individual is not currently involved in criminal proceedings in the district of application only. There is no centralised/national criminal record check available. An SKCK is only available for six months. <sup>15</sup>
Kenya	Partially	Kenya's Sexual Offences Act (Article 30) states that a person who has been convicted of a sexual offence and who fails to disclose such conviction when applying for employment which places him or her in a position of authority or care of children or any other vulnerable person or when offering or agreeing to take care of or supervise children or any other vulnerable person is guilty of an offence and liable upon conviction to imprisonment for a term of not less than three years or to a fine of no less than fifty thousand shillings or to both (approx. US\$441 as of January 2022).	It is reported that many employers require compulsory policy clearances in the Kenyan job market, however the cost and challenges to obtain the certificate can be prohibitive. Further, it is reported that government departments are leading the way in requiring background checks and policy clearances before interviews. <sup>16</sup>

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Kenya	Partially	In addition, Article 39 establishes that the court may declare a person who has been convicted of a sexual offence a dangerous sexual offender. If so, an order may specify that the offender is required to refrain from seeking employment of a specified nature.	If an individual is convicted of a crime, their record will be expunged after 20 years, but this does not apply to offences such as murder, rape and violent robbery. <sup>17</sup>
Nepal	No	Section 67(1) of the Children Act, states that “ If it is held that a person who is serving in any public or private organization commits any offence against the child, the person shall be dismissed in accordance with the prevailing law, and, based on the gravity and nature of the offence, such a person shall not be deemed eligible for up to ten years to be involved in the future in any act involving direct contact with the child or to be appointed, nominated or elected to such a private institution or organization”.	The majority of international volunteer organisations operating in Nepal do not perform background checks: “VolNepal, a Kathmandu-based organisation which matches volunteers with local NGOs, stated that the company proceeds on the grounds of “trust and faith” that volunteers have the best of intentions when requesting to work with children. Similarly, Volunteer Nepal, established by American Michael Hess to place visitors primarily in Nepali orphanages and schools, does not perform background checks. “We should, but we don’t,” Hess said.” <sup>18</sup>
<b>Indicator: The national legislation sets up conditions for any travel by persons convicted of sexual exploitation of children</b>			
India	Yes	In 2018, India launched a National Database on Sexual Offenders (NDSO), accessible to law enforcement agencies.	By January 2021, the NDSO contained over one million names. <sup>19</sup>  The NDSO keeps records of names, aliases, travel and immigration documents, employment information, professional licences, vehicle information, criminal history, photographs, fingerprints, DNA samples, identity card numbers and voter identification. <sup>20</sup> The NDSO is used to carry out background checks for individuals working in schools, colleges, hostels and other institutions. <sup>21</sup>
Kenya	Yes	In 2012, The Kenyan Government launched, under the Sexual Offences Act, the Sexual Offenders Register. This database holds the record of all convicted sexual offenders, including their names, identification card numbers, the crime committed and the age of their victim.	Anyone with a reasonable interest in finding out if an individual is on the registry may inquire as to whether they are so listed. Includes notification for international travel. <sup>22</sup>
Mexico	Partially	<p>In 2007 the Mexican government developed a system of intelligence and information called “Platform Mexico” that enables more efficient investigations through real-time information sharing from various security organisations. This national network stores criminal and public security data. The system is used in relation to kidnapping, extortion, blackmail and fraud, as well as in strategies related to the prevention of crime, law enforcement, border areas, terrorist activities and migration.</p> <p>In 2020, the bill on the creation of a Public Registry of Sex Offenders was approved, for the identification of people convicted or sentenced for any sexual crime in Mexico City as well as other entities in Mexico or abroad with whom an agreement is established.</p>	

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Mexico	Partially	Any person sentenced for femicide, human trafficking, rape or sex tourism will be registered on the database for a period of 10 to 30 years, depending on the severity of the crime.	
Peru	Partially	<p>Peru maintains a Single Registry of Victims and Aggressors (RIVA), which is a mechanism of the national system for the prevention, punishment and eradication of violence against women and members of the family group.</p> <p>In 2018, Peru legislated a sex offender registry, however the registry was not operational at the time of research.</p>	
Sri Lanka	Partially	The Crime Division of Sri Lanka Police is mandated to maintain a general registry on cases related to Re-convicted Criminals (RC) and Island Re-convicted Criminals (IRC). In this registry, matters related to children are also recorded.	<p>In January 2021, Sri Lanka’s Minister of Public Security announced his intention to publicly name offenders of child abuse, rape and assault in an attempt to deter potential offenders. It was also announced that in addition to facing legal consequences, offenders will have their photographs and personal details released to the public. If this is done — albeit with a clearer sense of structure, scrutiny and with the purpose of protecting potential victims and communities rather than shaming offenders — it would effectively constitute a system similar to a sex offender registry, or SOR, a list of convicted sex offenders within a state.<sup>23</sup></p> <p>Sri Lanka has no separate registry for offenders who have committed sexual offences against children, including child abuse and child pornography-related crimes, and all sex offences committed against children are included in a common registry which is maintained under the Prevention of Crimes Ordinance, No. 2 of 1926.<sup>24</sup></p>
Thailand	Partially	Although data on offenders is collected in Thailand, it is not disaggregated by typology of committed crimes.	
Uganda	No	Ugandan laws do not provide for the establishment of a national sex offender’s register. However, Article 24 of the Anti-Pornography Act provides for the establishment of a register of pornography offenders.	<p>The Sexual Offences Bill 2019 includes introducing a sex offenders registry. The Bill states that “A person who has been convicted of an offence under this Act shall, disclose such conviction when applying for employment which places him or her in a position of authority or care of children or any other vulnerable person or when offering or agreeing to take care of or supervise children or any other vulnerable person.”<sup>25</sup></p> <p>“The register will be linked to the Nira system and information shared within 10 days on conviction of the offenders. A person convicted of an offence under this Act shall have his or her particulars captured in the register.”<sup>26</sup></p>

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<i>Indicator: 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.</i>			
Peru	Partially	The General Law on Volunteering (2004) prevents people with criminal, police or judicial records from volunteering for crimes committed against sexual freedom, illicit drug trafficking, terrorism, crimes against property, serious injuries, and exposure of people to danger or kidnapping. The law applies to nationals and foreigners.	

## ENDNOTES

- For further information on Indicators, see: ECPAT International. (n.d.). [Global Progress Towards Ending the Sexual Exploitation of Children](#).
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