**Bangladesh**

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 Bangladesh and other countries in Asia, as well as Africa, Southeast 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.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Recommendations** | **Implemented** | **Legislation** |
|  | 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 | Bangladesh does not have any extra-territorial jurisdiction specific to offences of sexual exploitation of children (SEC). Section 188 of the Code of Criminal Procedure 1898 (CrPC) establishes extra-territorial jurisdiction for all offences punishable by the Bangladeshi laws in general. Accordingly, “When a citizen of Bangladesh commits an offence at any place without and beyond the limits of Bangladesh, or When any person commits an offence on any ship or aircraft registered in Bangladesh wherever it may be, he may be dealt with in respect of such offence as if it had been committed at any place within Bangladesh at which he may be found”. Therefore, the CrPC applies active national principle to extraterritorial jurisdiction. Similar provisions are contained in Section 4 of the Penal Code of Bangladesh, 1860. Neither CrPC nor the Penal Code cover cases where offences, including those related to SEC, are committed by habitual residents of Bangladesh or against Bangladeshi nationals, as required by Article 4 OPSC. Besides, Section 5(1) of the Prevention and Suppression of Human Trafficking Act, 2012, (hereinafter called PASHTA), provides for the extraterritorial application of the Act over offences relating to trafficking. Accordingly, “If any offence under this Act is committed by any person against a Bangladeshi national outside the territory of Bangladesh or on board in aircraft or ship, the provisions of this Act shall be applicable”. The Act establishes extraterritorial jurisdiction based on both active and passive nationality principle. Hence, PASHTA is more in line with Article 4 of OPSC but it only covers trafficking related offences.  |
|  | 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 | Under the national legislation, the scope of extradition with respect to SEC offences is quite limited. According to Section 2(1)(a) of the Extradition Act, 1974, an “extradition offence” means “an offence the act or omission constituting which falls within any of the descriptions set out in the Schedule and, if it took place within, or within the jurisdiction of, Bangladesh would constitute an offence against the law of Bangladesh and also- (i) in the case of a treaty State, an offence a person accused of which is, under the extradition treaty with that State, to be returned to or from that State; and (ii) in the case of a foreign State not being a treaty State, an offence specified in a direction issued under section 4.” It appears that the Act does not cover SEC offences as these are not in the Schedule.Notwithstanding, Section 4(4) of PASHTA makes offences under the Act extraditable in accordance with Section 2(1)(a) of the Extradition Act, 1974. |
|  | Do NOT require the principle of **double criminality** for proceeding with extraterritorial jurisdiction or extradition for sexual offences against children. | Yes | Bangladesh does not incorporate the principle of double criminality into its legislation on extraterritoriality nor extradtion. |
|  | Abolish **statutory limitations** for the prosecution of ALL offences of sexual exploitation of children. | Yes | It appears that the national legislation does not impose any statutory limitations for the prosecution of SEC offences.However, for offences under the Child Marriage Restraint Act a limitation period of two years applies |
|  | Set up **conditions for any travel** by persons convicted of sexual exploitation of children. | No | The national legislation does not deny entry/leave of foreigners convicted of sexual exploitation of children or set up strict conditions for their travel. |
|  | 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. | Partially  | According to Section 4 of the Children Act of 2013, all persons up to the age of 18 years shall be regarded as children for the purposes of this Act. The Pornography Control Act uses the same definition. [See Section 2(e)] In addition, Section 2(14) of PASHTA and Section 2(2) define a ‘child’ as any person below the age of 18. However, according to Section 2(k) of the Prevention of Oppression Against Women and Children Act 2000, which covers some SEC-related offences, defines a ‘child’ as “any person under fourteen years of age”. |
|  | 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 age of sexual consent for girls is 14. (Section 375 of the Penal Code, 1860) No age has been identified for boys. Moreover, there is neither any criteria to determine whether the consent for sexual activities between peers under the age of 18 is voluntary, well-informed and mutual nor any close in age exception. |
|  | Have a law or regulation establishing a **mechanism for centrally registering sex offenders** that has been implemented/setup. | No  | The national legislation does not establish any sex offender registry. |
|  | Establish **bail conditions** that prohibit individual accused of sexual offences against children from traveling outside of the country. | Partially  | The national legislation does not exclude SEC offences committed abroad from bail or establish bail conditions that prohibit the (alleged) offender from traveling outside of the country. Notwithstanding, the offences under PASHTA are cognizable, non-bailable, and non-compoundable (Section 16). Similarly, Section 19(ii) of the Prevention of Oppression Against Women and Children Act and 2000 and Section 10 of the Anti Pornography Act make all offences under these Acts non-bailable. |
|  | Provide in law that the **mere attempt** to commit a crime of sexual exploitation of children is criminalised. | Partially | Under Section 511 of the Penal Code the attempt at committing any crime under that Act will be punished with imprisonment of up to half of the sentence for the crime intended. Article 8 of the Prevention and Suppression of Human Trafficking Act punishes any person attempting to commit a trafficking offence with between 3-7 years imprisonment.  |
|  | 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 | Unable to find information suggesting the existence of laws imposing more severe sentences for recidivists for SEC offences. |
|  | Provide for **mandatory reporting** for particular professions that have likelihood to have contact with kids who might disclose. |  Yes | There are no mandatory reporting duties in relation to SEC offences. Notwithstanding, Section 53 of the Children Act makes it the responsibility of all persons to report about a “child in conflict with the law”. Any person who has reason to believe that a child is victim or witness to any criminal incident, has the responsibility of informing the Child Affairs probation Officer, the Probation Officer, or the Social Worker. Here, a “child in contact with the law” includes a child victim or witness of any offence under any law. (Section 2(4) of the Children Act 2013) |
|  | 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 |  |
|  | 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.
 | Partially | There are no laws imposing liabilities on private travel and tourism sector for SECTT offences. Notwithstanding, Section 44 of PASHTA criminalises offences by companies or firms under the Act. Accordingly, “where any offence under this Act is committed by a company or firm, whether incorporated or not in Bangladesh, the persons who were the proprietors, directors, managers, secretaries or agents of the company or firm at the time of the commission of the offence, shall be deemed to have committed the offence ... unless the accused may prove that the offence has been committed beyond his knowledge and has tried his best to prevent it”.Under the Bangladesh Tour Operators and Tour Guides (Registration and Operation) Act the license to act as a tourism operator can be revoked if the person holding the registration is penalised under criminal law. |
|  | 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. |  Yes | The national legislation does not criminalise grooming. Notwithstanding, the Children Act of 2013 sets forth in Section 78 the offence of “leading or encouraging a child to seduction”. Further, Section 8(1) of the Pornography Control Act provides that any person soliciting any woman, man, or child to participate in pornography commits a crime. These sections could be invoked to cover cases relating to grooming. |
|  | 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 children. | No |  |
|  | 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  |  |
|  | 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 (CRC) Ratified in 1990.
* Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography Ratified in 2002.
* Optional Protocol to the CRC on a Communications Procedure (OP3 CRC) Not signed.
* Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children Acceded in 2019.
* ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour No.182 Ratified in 2001.
* SAARC Convention on Preventing and Combating Trafficking in Women and Children Ratified in 2002.
* SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia Ratified in 2002.

UNWTO Convention on Tourism Ethics Not signed. |
|  | Establish **protection measures** for child victims at any stage of the legal process against the suspected offender. | Yes | Section 54(3) of the Children Act provides certain measures to ensure protection and confidentiality of child victims during judicial proceedings. In addition, Section 58 of the Children Act allows the authority in supervision of a “child in contact with the law” to take protective/safety measures for the child to prevent him/her from any harm during any stage of the trial. Section 81 of the Children Act imposes penalty on media for publishing confidential information pertaining to a case or judicial proceeding under the Act. Likewise, Section 14 of the Prevention of Oppression against Women and Children Act, 2000, prohibits media from publishing information about a woman or child victim. |
|  | Establish **child-friendly interviewing practices by professionally trained police.**  | Partially | Section 13 of the Children’s Actprovides for the establishment, in every police station, of Child Affairs desks, tasked with attending to all cases involving children and to organize immediate support to any child arriving at a police stationSection 54 of the Children Act exclusively deals with child-friendly interview methods for children in contact with the law. Furthermore, Section 16 of this Act provides for the establishment of Children’s courts and Section 17(1) gives exclusive jurisdiction to Children’s courts to try cases involving “children in contact with the law”. Section 19 deals with the environment and facilities of the Children’s courts. Section 55 of the Children Act deals with legal representation for child victims. Section 38 of PASHTA deals with protection of the rights of child victims and witnesses. It states that: “(l) Without prejudice to the generality of the provisions of this Act regarding the protection of the victims and witnesses, any person including the Tribunal dealing with a child victim or witness shall apply the principle of welfare and the best interest of the child and the principle of priority and follow the provisions of any other law for the time being in force as well as the principles in different international instruments, and take necessary measure to avoid the child victims to be convicted or the stigmatisation and social marginalization of the child victim and the child witness. (2) No child coming in contact or conflict with this Act shall be dealt with by the police or the Government or any other person dealing with the subject matters of this act otherwise than through the intervention of a child-friendly officer and processes, and, no child victim of human trafficking or victim child shall be sent or detained in any development center or in a remand home”.In addition, Section 25 of PASHTA provides for in camera trial for the interest of justice and to protect the child and woman victim. Section 26 of PASHTA provides for provision of interpreters and translations to the victims of trafficking. Section 27 of the Children Act contains similar provisions. A Child Advocacy Centre does not exist in the country. |
|  | Ensure that national legislation provides the **right for child victims to receive support in their recovery and rehabilitation**, including accessing re-integration services. | Yes | Chapter X of the Children Act deals with alternative care arrangements. According to Section 84, such arrangements may be initiated for the welfare and best interest of children in contact with the law and to ensure their special care, protection and development needs. Chapter V of PASHTA deals with assistance, protection and rehabilitation of the victims of human trafficking and witnesses.   |
|  | 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 | The Government of Bangladesh operates the National Helpline 109 for sexual violence crimes where children can seek help, advice and get information about reporting sexual exploitation crimes to authorities. |
|  | 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. | Partially | Although ICT and the Digital Security Acts contain provisions for data retention and preservation, these do apply specifically to SEC offences. Therefore, it is unclear if whether this provision would also apply in the investigation of SEC offences. |
|  | 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 | Section 28 of PASHTA permits the Tribunals tor order compensation to be paid to the victims of the offence of trafficking. In addition, Section 40 of PASHTA sets forth that the Government may provide financial assistance to the victim of human trafficking or to the victim from the Human Trafficking Prevention Fund established under Section 42 of the Act. Section 15 of the Prevention of Oppression against Women and Children Act 2000 also provides for recovery of fine from the offenders for paying damages to the victims under the Act. In addition, Section 545 of CrPC gives the Courts the power to pay expenses or compensation out of fine to the victims of crimes. 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.. |

**Legal Sources:**

[The Children Act, 2013](https://www.unicef.org/bangladesh/sites/unicef.org.bangladesh/files/2018-07/Children%20Act%202013%20English.pdf)

[The Extradition Act, 1974](http://bdlaws.minlaw.gov.bd/act-details-479.html)

[The Penal Code, 1860](http://bdlaws.minlaw.gov.bd/act-11.html)

[The Prevention and Suppression of Human Trafficking Act, 2012](https://www.ecoi.net/en/file/local/1028974/1930_1413966465_543f75664.pdf)

[The Prevention of Oppression Against Women and Children Act 2000](https://iknowpolitics.org/sites/default/files/prevention_act_bangladesh.pdf)

[The Digital Security Act, 2018](https://www.cirt.gov.bd/wp-content/uploads/2018/12/Digital-Security-Act-2018-English-version.pdf)

[The Information and Communication Technology Act, 2006.](https://samsn.ifj.org/wp-content/uploads/2015/07/Bangladesh-ICT-Act-2006.pdf)

[The Code of Criminal Procedure, 1898.](http://bdlaws.minlaw.gov.bd/act-details-75.html)

[Domestic Violence (Prevention and Protection) Act, 2010](https://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/page/203db6dc_7c82_4aa0_98a6_8672334b235c/Domestic%20Violence%20Act%20English.pdf)

[Pornography Control Act 2012](http://bdlaws.minlaw.gov.bd/act-details-1091.html?lang=en)