**Pakistan**

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

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|  | **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 | According to Section 3 of the Penal Code of Pakistan 1860 (as amended in 2017), “Any person liable, by any Pakistan Law, to be tried for an offence committed beyond Pakistan shall be dealt with according to the provision of this Code for any act committed beyond Pakistan in the same manner as if such act had been committed within Pakistan”. Further, according to Section 4, the Code covers offences committed by “any citizen of Pakistan or persons in the service of Pakistan in any place without or beyond Pakistan “and “any person on any ship or aircraft registered in Pakistan wherever it may be”. Therefore, the Penal Code establishes extraterritoriality based on active nationality principle. Additionally, Article 1(3) of the Prevention of Electronic Crimes Act (PECA), “It shall apply to every citizen of Pakistan wherever he may be and also to every other person for the time being in Pakistan”. Further, Article 1(4): It shall also apply to any act committed outside Pakistan by any person if the act constitutes an offence under this Act and affects a person, property, information system or data, located in Pakistan.” Therefore, this Act establishes extraterritoriality based on active nationality principle. It does not, however, cover crimes committed against Pakistani citizens abroad. General provisions on extraterritoriality are also included in Section 179 of the Code of Criminal Procedure, which extends the jurisdiction of the courts in Pakistan to places outside their local jurisdiction where persons, properties, etc., affected by an offence are situated.The Prevention of Trafficking in Persons Act (PTPA) 2018 does not explicitly provide for extraterritorial jurisdiction for offences relating to trafficking criminalised by it.  |
|  | 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 | Pursuant to Article 2(1)(a) of the Extradition Act of 1972, for an offence to be extraditable, it should fall within one of the descriptions set out in the Schedule of the Act. As per the Schedule, the “procuring or trafficking in women or young persons for immoral purposes” is an extradition offence. Further, “stealing, abandoning, exposing or unlawfully detaining a child” and “rape” are also extraditable. Apart from these, other SEC offences are not covered. Hence, this area is only partially regulated. |
|  | Do NOT require the principle of **double criminality** for proceeding with extraterritorial jurisdiction or extradition for sexual offences against children. | Partially | Principle of double criminality is applicable to extradition law. [See Section 2(1)(a)]It is unclear whether the principle of double criminality applies to extraterritorial jurisdiction in Pakistan. On bare reading of the sections relating to extraterritoriality (refer to Point 1 of the checklist), it appears that the principle does not apply. |
|  | 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. |
|  | Set up **conditions for any travel** by persons convicted of sexual exploitation of children. | No | Although no such provision exists for SEC offences, the provisions of the Foreigners Act, 1946, might be relevant. According to Section 3(1), “the Federal Government may by orders make provision either generally or with respect to all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into Pakistan, or their departure therefrom or their presence or continued stay therein”. According to Section 3(2), such orders may provide, inter alia, for restrictions on entry, exit, movement in Pakistan, etc. |
|  | 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  | Section 2(b) of the Juvenile Justice System Act, 2018 and Section 2(a) Prevention of Trafficking in Persons Act, 2018 define a ‘child’ as a person below the age of 18 years. Conversely the Penal Code, which covers SEC offences more comprehensively, does not define the term ‘child’ and, uses ‘minor’ on several occasions. (e.g. Offence of procuration of minor girl under Section 366A). Moreover, not all children under the age of 18 years get same protection against all offences. For instance, the offence of kidnapping under Section 364A only protects children under the age of 14 years or the offence of procuration of minor girl under Section 366A covers only girls under the age of 18 and there is no similar provision for boys. Likewise, the Section 2(1)(xxiv) of the Prevention of Electronic Crimes Act, 2016, uses the term "minor" to refer to persons below the age of 18 years. |
|  | 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 is set at 16 by Section 375 of the Penal Code. There is no close in age exemption under the Pakistani legislation. Further, all sexual activities outside marriage are illegal in Pakistan. (Section 496B of the Penal Code) |
|  | Have a law or regulation establishing a **mechanism for centrally registering sex offenders** that has been implemented/setup. | No  | The Anti-Rape (Investigation and Trial) Act, 2021 adopted in December 2021 sets forth an obligation for the National Data-Base and Registration Authority to set up a national sex offender registry. As of May 2022, there have been no updates on the registry. In addition, the Police Rule legislation requires a register to be maintained with the details of the sex offenders. |
|  | Establish **bail conditions** that prohibit individual accused of sexual offences against children from traveling outside of the country. | Partially  | The Extradition Act partially covers this point. According to Section 19 of the Extradition Act, 1972:“The provisions of the Code of Criminal Procedure, 1898, relating to bail shall apply to a fugitive offender arrested or detained under this Act in the same manner as they would apply if he were accused of committing in Pakistan the offence of which he is accused or has been convicted; and in relation to such bail the Magistrate before whom he is brought shall have, as far as may be, the same powers and jurisdiction as a court of session under that Code”.According Schedule II of the Code of Criminal Procedure [as amended by the Criminal law (second amendment) Act of 2016], sexual offences against children under Sections 292A, 292C and 377B of the Penal Code (refer to Point 10 of the checklist) are non-bailable. According to Section 9 of the Prevention of Trafficking in Persons Act, 2018, offences under the Act are non-bailable under the Code of Criminal Procedure 1898. As can be observed, there are provisions about SEC offences being non-bailable but there’s no explicitly reference made to those offences committed abroad besides that point in the Extradition Act. |
|  | Provide in law that the **mere attempt** to commit a crime of sexual exploitation of children is criminalised. | Yes | Section 511 of PPC criminalises attempt to commit offences under the Code.Section 3(1) of the PTPA also criminalises attempt. |
|  | 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. | Partially | Section 4(d) treats “repetition of the offence by the same offender” as one of the aggravating factors for offences (related to trafficking) under Section 3 of the Act. This attracts an imprisonment period of 3-14 years and fine up to 2 million rupees (approx. US$12,076 as of September 2020)For committing a subsequent offence under Section 21(1) (refer to Point 10 of the checklist) of the Prevention of Electronic Crimes Act, 2016, against the modesty of a minor, the Act prescribes an enhanced punishment. According to Section 21(2) of the Act, “in case of a person who has been previously convicted of an offence under sub-section (l) with respect to a minor shall be punished with imprisonment for a term of ten years and with fine”.It must be noted that not all laws criminalising SEC offences contain provisions relating to recidivism. |
|  | Provide for **mandatory reporting** for particular professions that have likelihood to have contact with kids who might disclose. | No | There are no reporting duties under the Penal Code, PECA or HTTCA relating to SEC offences. |
|  | 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 | Pakistan lacks specific legislation on SECTT that ensures the liability of the private travel and tourism sector for SECTT offences. Notwithstanding, Section 11 of the Penal Code makes it clear that the term person includes “any Company or association, or body of persons, whether incorporated or not”. Therefore, for SEC offences under PPC, private travel and tourism organisations might be held liable. |
|  | 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 | Although the national legislation does not explicitly criminalise grooming, Section 292A of PPC criminalises exposure of children to seduction. According to it, “whoever seduces a child by any means whatsoever with an intent to involve him in any sexual activity or exposes him to obscene and sexually explicit material, document, a film, video or a computer generated image or attempts to do the aforementioned act…”. This Section might be used to prosecute offenders for 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 2011
* 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 Not signed
* 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 | PTPA ensures the safety of victims and witnesses of any offence under the Act. Pursuant to Section 11 of PTPA: *“(1)The Government or a Provincial Government may, in the prescribed manner, take appropriate measures to ensure that a victim, witness of an offence under this Act or any other related person is provided adequate protection, if safety of the victim, witness or the person is at risk. (2) When it is necessary to safeguard the physical safety of a victim or witness of an offence under this Act, the Government or a Provincial Government may, in the prescribed manner, take necessary measures to relocate victim or witness or to limit the disclosure of name of the victim or witness, address and other identifying personal information or both”.*Further, according to Section 12 of PTPA that ensures that the Protection of victims and witnesses by the Court, “(1) The rules made under this Act may specify circumstances ln which the Court may - (a) (b) (c) conduct the Court proceedings in camera; seal or restrict access to record of the Court proceedings; permit evidence of a victim or a witness behind a screen or similar adequate means out of view of the accused, or through a video link or the use of other communications technology; or (d) use a pseudonym of a victim or a witness”. |
|  | Establish **child-friendly interviewing practices by professionally trained police.**  | No | Unable to find national laws that establish child-friendly interview methods. Notwithstanding, Section 12 of PTPA (refer to Point 19) could be relevant in this context. Every child victim is entitled to receive legal representation at the expense of the state, pursuant to Section 3(1) of the Juvenile Justice System Act, 2018. 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.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. | No | Although the national legislation fails to ensure that the child victims fully enjoy their right to recovery and rehabilitation, the Government has established 13 Drop-in Centers/ Child Protection Centers/ Education and Counseling Centers for children who are victims of violence and commercial sexual exploitation. These centers impart non-formal education, provide psycho-social support, counseling, legal aid, personal rehabilitation. ([Para 63, Pakistan’s Initial Report to the UN Committee on the Rights of the Child on the implementation of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPSC%2fPAK%2f1&Lang=en) |
|  | 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 | Pakistan does have a helpline, the Madadgaar National Helpline 1098, for women and children suffering from violence and abuse. In addition, the Zainab Alert, Response and Recovery Act, 2020 provides for the establishment of a national hotline number - 1099- to report missing or abducted children. It is noted that this Act was passed in 2020, just before the COVID-19 pandemic, which resulted in a delay in the establishment of this complaints mechanism. Notwithstanding, the Government has launched the Zainab Alert App, linked to the Pakistan Citizen Portal (Prime Minister Portal) to report missing children. |
|  | 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 | The Prevention of Electronic Crimes Act, 2016, provides for the retention of data by service providers under Section 32. The term “services provider” includes a person who:*“(a) acts as a service provider in relation to sending, receiving, storing processing or distribution of any electronic communication or the provision of other services in relation to electronic communication through an information system; (b) owns, possesses, operates, manages or controls a public switched network or provides telecommunication services or (c) processes or stores data on behalf of such electronic communication service or users of such service”.* [section 2(1)(xxviii)] Ideally, this should cover ISPs, mobile phone companies, social media companies, cloud storage companies, and the technology industry.However, these provisions do not apply exclusively to SEC offences, but all offences under the Act in general |
|  | 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 | According to Section 13 of the PTPA, “Where an offender is convicted of an offence under this Act, the Court may direct payment of compensation to the victim under Section 545 of the Code of Criminal Procedure”. Section 45 of the Prevention of Electronic Crimes Act, 2016, authorises the courts to make an order for the payment of compensation to the victims of offences under the Act, in addition to other punishments. 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 Extradition Act, 1972](http://www.oecd.org/site/adboecdanti-corruptioninitiative/39365414.pdf)

[Juvenile Justice System Act, 2018](http://www.na.gov.pk/uploads/documents/1519296948_886.pdf)

[Pakistan Penal Code (updated till 2018)](http://nasirlawsite.com/laws/ppc.htm)

[Criminal law (second amendment) Act of 2016](http://www.lawsofpakistan.com/wp-content/uploads/2017/04/Pakistan-Penal-Code-Child-Abuse-Amendment-2016.pdf)

[Prevention of Electronic Crimes Act, 2016](http://ilo.org/dyn/natlex/docs/ELECTRONIC/104952/128187/F424540000/PAK104952.pdf)

[The Foreigners Act, 1946](https://www.unodc.org/res/cld/document/foreigners-act--1946_html/Foreigners_Act.pdf)