

Cambodia



LEGAL CHECKLIST

KEY LEGAL INTERVENTIONS TO PROTECT
CHILDREN FROM SEXUAL EXPLOITATION
IN TRAVEL AND TOURISM

ECPAT International has developed [a legal checklist](#) 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](#) 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 Cambodia 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](#) and an [assessment matrix](#) can be consulted for further reference.

	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.	Yes	The Criminal Code (CC) provides territorial jurisdiction over crimes of sexual exploitation of children committed in Cambodia (Article 12), and extra-territorial jurisdiction for crimes committed by Cambodian nationals abroad (Article 19, active nationality principle), or when the victim is a national from Cambodia (Article 20, passive nationality principle). The TIPSE Law (2008) has similar extraterritorial application (Articles 2 and 3).

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	<p>The Criminal Procedure Code (CPC) states that <i>“the extradition of a foreign resident who is arrested in the territory of the Kingdom of Cambodia shall be governed by provisions of international conventions and treaties ratified by the Kingdom of Cambodia”</i>. In case there is no international convention or treaty, the provisions of the Criminal Procedure Code apply. Article 569 CPC foresees that an extradition may be made only if the charges against the alleged offender is also an offence under both the laws of the requesting state and the law of Kingdom of Cambodia.</p> <p>Contents of extradition treaties have not been reviewed. Article 33 of the Constitution stipulates that <i>“Khmer citizens shall not be deprived of their nationality, exiled or arrested and deported to any foreign country unless there is a mutual agreement on extradition”</i>, an important restriction to extraditions.</p>
3.	Do NOT require the principle of double criminality for proceeding with extraterritorial jurisdiction or extradition for sexual offences against children.	Partially	<p><u>Jurisdiction</u>: Article 19 and 20 CC mentioned in the previous section do not require that the acts are criminalised by the law of the foreign country where the offence has taken place.</p> <p><u>Extradition</u>: Dual criminality is required under the extradition treaties to which Cambodia is party as well as under the Criminal Procedure Code.</p>
4.	Abolish statutory limitations for the prosecution of ALL offences of sexual exploitation of children.	No	<p>According to Article 9-10 of the CPC, Statute of Limitations of a crime applies to all crimes except crime of genocide, a crime against humanity and war crime. Excluding those crimes, the time limitation for bringing a criminal action is as follows:</p> <ul style="list-style-type: none"> · fifteen (15) years for a felony; · five (5) years for misdemeanour; and · one (1) year for a petty offence
5.	Set up conditions for any travel by persons convicted of sexual exploitation of children.	Partially	<p>The 2009 Law on Tourism stipulates that <i>“tourists or travelers who partake in activities related to sexual human trafficking and confinement, child trafficking and sexual exploitation/prostitution, disseminations of pornographic pictures and materials, shall be subject to a nullification of entry-visa and shall be expelled or may be banned [from] staying [in] the</i></p>

			<p><i>Kingdom of Cambodia for a specified period of time, not exceeding five years or permanently” (Article 50 and 68).</i></p> <p>However, deportation (ban on stay penalty) is not mandatory, but at the discretion of judges.</p> <p>There are no restrictions to travel for Cambodian national convicted child sex offenders.</p>
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 Civil Code of Cambodia defines minors as “persons under the age of eighteen”. Although Cambodia’s legislation contains alternative terminology for persons under the age of 18 years (e.g. Labour Law uses the word adolescent for children aged fifteen and over, the Civil Code, the Code of Criminal Procedure and the Law on Suppression of Human Trafficking and Sexual Exploitation define them as minors), this does not hamper the legal protection of children victims of sexual exploitation.
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 age of sexual consent is 15 years for both boys and girls. Furthermore, Cambodia does not have a close-in-age exemption allowing exceptions for consensual sexual activities among peers. However, Article 44 of the Law on Suppression of Human Trafficking and Sexual Exploitation contains an exemption from punishment for persons under the age of 15 years who have sexual intercourse or commit an indecent act against a child under 15 years.
8.	Have a law or regulation establishing a mechanism for centrally registering sex	No	

	offenders that has been implemented/setup.		
9.	Establish bail conditions that prohibit individual accused of sexual offences against children from traveling outside of the country.	Partially	The TIPSE Law recognizes any sexual offences committed outside the territory of the Kingdom of Cambodia, either by Khmer Citizen or foreigner whom committed the offence to a Khmer citizen victim. (Article 3) TIPSE is silent on offenders under bail, yet the Criminal Code has set forth the judicial control over the offenders by ordering the accused person to respect one or more obligations such as: cannot go outside the territorial boundaries or certain places determined by the investigating judge, cannot change residence without the permission of the investigating judge. (Article 223)
10.	Provide in law that the mere attempt to commit a crime of sexual exploitation of children is criminalised.	Yes	Attempted crimes are punished and liable to the same punishment as if the offence has been committed. (Article 4, TIPSE). The Criminal Code defines attempt in its Article 27 and states that it will be punished if the perpetrator has started to commit the offence, that is, he or she has committed acts which lead directly to the commission of the offence; and the perpetrator did not stop his or her acts voluntarily, but was interrupted solely by circumstances beyond his or her control.
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.	Partially	According to the 2009 Criminal Code: <u>Article 85: Recidivism in respect to a Felony:</u> When a person has already been definitively convicted for a felony, and if he/she commits a new felony within a period of 10 (ten) years, the maximum imprisonment term imposed for the new felony is increased in accordance with the following scale: · 1. If the new penalty for the imprisonment term imposed for the new felony does not exceed 20 (twenty) years, this maximum term is doubled;

		<ul style="list-style-type: none">· 2. If the maximum penalty for the imprisonment term imposed for the new felony is 30 (thirty) years, the maximum term shall become life imprisonment. <p><u>Article 86: Recidivism in respect to a Misdemeanour after a Felony Penalty:</u> When a person has already been definitively convicted for a felony, if he/she commits a misdemeanour within a period of 5 (five) years, the maximum imprisonment term imposed on the misdemeanour is doubled. In the case where, as a result of the recidivism, the maximum penalty in respect to the imprisonment term imposed exceeds 5 (five) years, the offence shall remain a misdemeanour, despite the increase in the penalty.</p> <p><u>Article 87: Recidivism in respect to a Felony after a Misdemeanour Penalty:</u> When a person has already been definitively convicted for a misdemeanour, whereby the penalty in respect to the imprisonment term is equal to, or more than, 3 (three) years, and he/she has committed a felony within a period of 5 (five) years, the penalty imposed for the felony is increased in accordance with the following scale:</p> <ul style="list-style-type: none">· 1. If the maximum penalty in respect to the imprisonment term imposed for the felony does not exceed 20 (twenty) years, this maximum penalty/term shall be doubled;· 2. If the maximum penalty for the imprisonment imposed for the felony is 30 (thirty) years, the maximum punishment shall become life imprisonment. <p><u>Article 88: Recidivism in respect to a Misdemeanour after a Misdemeanour Penalty:</u> When a person has already been definitively convicted for a misdemeanour, and he/she has committed the same misdemeanour within a period of 5 (five) years, the maximum penalty in respect to the imprisonment term imposed for the new misdemeanour shall be doubled. In the event whereby, as a result of the recidivism, the maximum penalty in respect to the</p>
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			imprisonment term imposed exceeds 5 (five) years, the offence shall remain a misdemeanour, despite the increase in the penalty.
12.	Provide for mandatory reporting for particular professions that have likelihood to have contact with kids who might disclose.	Partially	Reporting is mandatory but it does not concern children between the ages of 16 and 18 years old and is not specific to sexual exploitation. <u>Article 530 of the CC - Failure to Complaint about Mistreatment of a Minor:</u> <i>“Any person who has knowledge of mistreatment or sexual abuse against a minor who is less than 15 (fifteen) years of age, but fails to inform the court or the administrative authority shall be punishable by imprisonment from 1 (one) year to 3 (three) years and a fine from 2,000,000 (two million) Riels to 6,000,000 (six million) Riels.”</i>
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	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.
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	No	Cambodian law does not contain provisions defining or explicitly criminalising the sexual exploitation of children in travel and tourism. However, some provisions might be applicable to hold companies liable, when within the context of their business, they are involved in child sexual exploitation (mainly prostitution and trafficking):

	<p>meant to create or facilitate opportunities to engage (involve) children in sexual activities;</p> <ul style="list-style-type: none"> - 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. 		<p>- According to the Article 284 CC “<i>procuring is punishable by an imprisonment of between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) Riels and 10,000,000 (ten million) Riels</i>”. Article 296 establishes that legal entities may be pronounced to be criminally responsible according to conditions of Article 42 CC (Criminal Responsibilities of Legal Entities) for offences prescribed in this Chapter. Procuring is defining as such: <i>“The procuring is an act of: 1. drawing a financial profit from the prostitution of another; 2. assisting or protecting the prostitution of another, or operating whatever is defined as prostitution activities; 3. recruiting, abducting or luring any person to become a prostitute; 4. exercising pressure on a person to become a prostitute.”</i></p> <p>- Under Article 4 of the TIPSE Law (2008), when a representative, agent, or employee for a legal entity or a principal commits any offence which is stipulated in this law within the scope of its business, or in the interest of the legal entity or the principal, the legal entity or the principal shall be punished with a fine, and additional penalties in accordance with the punishments stipulated in the relevant article.</p>
15.	<p>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.</p>	No	<p>Although the Criminal Code does not prohibit the online solicitation of children for sexual purposes (online grooming) as a standalone offence, it does criminalise “the arrangement, by an adult, of meetings involving indecent exposure or sexual relations at which minors are present or participate” under Article 346.</p> <p>Although criminalizing one of the possible outcomes of the grooming process – the engagement in sexual acts during a meeting in-person – this provision fails to criminalize the process of building trust between the offender and the child as well as situations where the sexual abuse happens online, for example, if a child is asked to send sexual content to an offender via online platforms.</p>

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 children.	No	<p>The Criminal Code does not include a general prohibition to hold positions involving or facilitating contact with children for convicted sex offenders, but this prohibition can be imposed in respect of the offences defined in Articles 250 and 346 of the Criminal Code as stated in its Articles 252 (2) and 349 (2) respectively, only if the offence was connected to the profession.</p> <p>Reportedly, the Ministry of Education, Youth and Sport has been working on the child protection policy in school and will require schools to demand a background check from all staff (as of November 2020).</p>
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	<ul style="list-style-type: none"> • Convention on the Rights of the Child (CRC) Ratified in 1992 • 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 • ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour No.182 Ratified in 2006 • Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children Ratified in 2007 • United Nations World Tourism Organisation (UNWTO) Framework Convention on Tourism Ethics Not signed

			<ul style="list-style-type: none"> • 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 • ASEAN Convention Against Trafficking in Person, Especially Women and Children – Ratified in 2016
19.	Establish protection measures for child victims at any stage of the legal process against the suspected offender.	Partially	<p>Article 49 of the TIPSE Law (2008) prevents the media from publishing or disseminating information revealing the victim’s identity to the public, and the Law on the Press Regime prohibits the press from publishing information, photographs or drawings that could facilitate the identification of a child victim (Art 15).</p> <p>The Cambodian National Council for Children also issued a Decision on December 2007 on Guidelines for the Protection of the Rights of Trafficked Children stating that, in all actions concerning child victims, whether undertaken by police, courts, an administrative authority or a legislative body, the best interest of the child shall be the primary consideration. At the investigation stage, it states that the investigation must not be made known to the suspect and confidentiality of the child's identity should be maintained. The child victim must be brought to a safe environment including referral to social services organisations. Moreover, he/she has the right to receive all information that affects him/her and to express his/her views freely on all matters that affect him/her.</p> <p>Art. 5 of the new law on Juvenile Justice (2017) provides guidelines for the treatment of child victims and witnesses (e.g. “<i>a child should be treated humanely and with dignity</i>”).</p>

			<p>Child victims from poor families have access to legal aid through the Legal Aid Department of the Bar Association of Cambodia. However, there is no comprehensive law that regulates legal aid in Cambodia.</p>
20.	<p>Establish child-friendly interviewing practices by professionally trained police.</p>	<p>Partially</p>	<p>The Cambodian National Council for Children Guidelines for the Protection of the Rights of Trafficked Victims provide recommendations on how to conduct child sensitive interviews, but these are not established in law.</p> <p>In 2008, the Ministry of Justice passed a Prakas on the Use of Court Screen and Courtrooms TV-Linked Testimony from Child/Vulnerable Victims or Witnesses aiming to provide a safe and supportive environment in which a child can share information regarding their experience that minimises trauma and threats to their personal safety and in accordance to the developmental level of the child. This Prakas sets courts screens as a primary protective measure in all cases involving children, and TV-linked testimony in cases where special protection is needed. According to the regulation, the testimony of a child should be held in camera, children can be accompanied by a court-approved support person and the Court must ensure that there is a comfortable environment for the child. The Ministry of Justice also produced instructional videos for child victims and child witnesses about the role and functions of criminal justice actors.</p> <p>More recently, in 2016, the Government issued the Guidelines on the Forms and Procedures for Identification of Victims of Human Trafficking for Appropriate Service Provision which provides for, inter alia, certain ethics to be followed while interviewing the victims. According to the guidelines, “If a victim is a minor, a child-friendly methodology shall be used with the presence of his/her parent (s) or guardian (s) or legally authorized officials or adult (s) trusted by the child so that they can witness and create a comfortable environment; however, the presence of the person(s) suspected of involving in the offence (s) shall not be allowed”.</p>

			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	Cambodia has introduced a number of measures to better protect the rights and interests of child victims, including a National Policy and Minimum Standards on Alternative Care for Children, Principles on the Protection of the Rights of Child Victims of Trafficking, and a draft guideline for identification and referral of victims of human trafficking and sexual exploitation. Despite this, the Committee on the Rights of the Child has observed a number of gaps and limitations in victim services. Moreover, all these measures are not established in law.
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	<p>Child Helpline Cambodia provides 24-hour phone counselling, information, referral and follow-up services for children. Reports can be made to the Ministry of Interior’s Department of Anti-Trafficking and Juvenile Protection hotline and to NGO hotlines.</p> <p>The national hotline for the public to report on any problem related to human trafficking and sexual exploitation, including of children, is currently being managed by the Department of Anti Human Trafficking and Juvenile Protection of the National Police. It’s a toll-free number (short codes) — 1288. This is a 24/7 hotline.</p>
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	No	Currently, there is no legislation in Cambodia requiring internet service providers to preserve content-based or non-content-based data, or to provide such material to law enforcement. The most recent publicly available version of the draft Cybercrime Law includes a provision related to the preservation of computer and traffic data. This provision establishes that the prosecutor or the court can order the expeditious preservation of computer and traffic data if there are indications that such data is connected with a

	communication companies, cloud storage companies, based in/operating in national jurisdiction.		cybercrime, including offences related to CSAM, being committed. The period of expeditious data preservation cannot be longer than 120 days. Prosecutors and courts can also order the copying of such data when needed for evidence purposes and the searching and seizing of computer data.
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	Child victims can seek compensation in civil or criminal proceedings as enshrined in Title 3 of the Code of Criminal Procedure whether the injury is physical or psychological. A civil action can be brought in conjunction with a criminal action that is before a criminal court or independently before a civil court, though it will be suspended until the final decision on the criminal action has been made. The civil action can be filed on behalf of a child victim by their legal representative.

[Legal Sources: Code of Criminal Procedure of the Kingdom of Cambodia, 2007](#)

[Criminal Code of the Kingdom of Cambodia, 2009](#)

[Cybercrime Law Draft V.1](#)

[Decision on Guideline for the Protection of the Rights of Trafficked Children of the Kingdom of Cambodia](#)

[Guidelines on the Forms and Procedures for Identification of Victims of Human Trafficking for Appropriate Service Provision](#)

[Decision on Guideline for Applying Child Participation](#)

[Law on Suppression of Human Trafficking and Sexual Exploitation, 2008](#)

[Law on Tourism, 2009.](#)

[Prakas No. 852 on the Implementation of the Policy on the Rights of Victim of Human Trafficking](#)

[Prakas No. 2280 on Procedures to Implement of the Policy on Alternative Care for Children](#)