



# Indication of E-Wallet Transaction Misuse – Facilitated Commercial Sexual Exploitation of Children

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**Abstract.** *This article aims to analyze indications of sexual exploitation of children for economic and personal interests that are increasingly easy with the presence of various digital financial applications. In addition to requests, the easiness of financial transactions becomes more common for sexual predators to interact directly with a minor without the intervention of others. This in turn has an impact on the complexity of law enforcement. Several cases of sexual exploitation of children in public emphasize the inhumane treatment of children by utilizing transaction facilities from financial service providers such as e-wallets. This article uses a statutory approach and conceptual approach to research. The results of the study show that child sexual exploitation crime transactions require special, fast, and systematic handling. It is because the phenomenon of increasing sexual exploitation of children is not accompanied by specific regulations that deal with indications of sexual exploitation of children by utilizing technological sophistication in conducting transactions. In addition, law enforcement also experiences uncertainty because there is no instrument that regulates clearly and firmly. In this context, Indonesia must use criminal policy to compile and regulate CSEC to suppress indications of CSEC using e-wallets. Therefore, the government must immediately make rules or draft laws to anticipate this crime.*

**Keywords:** *Comercial Sexual Exploitation of Children (CSEC), Criminal Policy, Financial Transaction.*

## 1. Introduction

Information technology has changed the behavior of society and human civilization globally. The rapid development and utilization of information technology have had a significant impact on all levels of society, including children. Information-based technology was later understood as the Internet. The vast use of the Internet, especially in Indonesia, has brought a positive influence in many ways. [1] On the other hand, it also has a potential to cause a lot of harm and open the gaps for criminals to commit criminal acts. The most obvious gap in the convenience provided by this technology is that there is no face-to-face meeting between buyers and sellers in every transaction. The gap to act criminally is wide open if the perpetrator understands how information technology works. That is, any information technology-based system will process properly and in accordance with the system if it gets input data or commands that are matched and recognized.[2]

In the era of the industrial revolution 4.0, all industries are dependent on the development of technology and the internet. Even in the current era of digitalization technology, competition is not only face to face but can also be in the web-based business world, the internet and software in aspects of our daily lives.[3] The financial sector is one of the most affected by technological developments. The form of technological and information development in the financial sector is the emergence of financial technology (fintech). According to The National Digital Research Center (NDRC), fintech is an innovation in financial services.

To ascertain the existence of indications of suspicious transactions through digital finance, law enforcement officials must conduct an analysis of financial statements to find such indications, it is necessary to identify the types of financial transactions, but unfortunately, this seems difficult because the nature of crimes committed through Fintech

is a gray crime. An example of this is transactions in the crime of Commercial Sexual Exploitation of Children (CSEC). Based on data from the Online Information System for the Protection of Women and Children, it was recorded that until November 2023 there were 15,120 cases of violence against children, one of which was sexual exploitation of children using digital technology Electronic Commerce (E-Commerce). The ease of conducting transactions through e-commerce has made children easy targets for sexual exploitation in Indonesia. The phenomenon of child exploitation can also be found in urban communities that are categorized as poor. The impact of competition in obtaining employment, urban residents do not get decent jobs because they do not have skills and expertise so they live in poverty.[4]

Through e-commerce, for the first time all humans on earth have the same opportunities and chances to compete and succeed in doing business in cyberspace. With the application of e-commerce, relationships between companies and other external entities should be faster, more intensive, and cheaper than the application of conventional management principles (door to door, one-to-one relationships). Thus, e-commerce is not just a mechanism for selling goods or services through the internet medium, but also a business transformation that changes the way companies view their business activities.[5] However, the more sophisticated e-commerce methods threaten the security and integrity of e-commerce operations. E-commerce then develops by providing e-wallet services that are used for online transactions through applications, offline transactions through QRIS and receiving or transferring payments to or from your contacts and withdrawing balances to bank accounts. The use of digital wallets in e-commerce can be used to store money as well as make transactions. Our personal information and financial records will also be stored here.[6] This sophistication is certainly a dangerous counter-mode in suspicious financial transactions related to CSEC.

In Indonesia, related to electronic information technology have been regulated in Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 on Electronic Information and Transactions. As explained in Article 27 paragraph (1) but these provisions are perceived as legal protection for consumers of e-commerce transactions and therefore can not accommodate CSEC transactions. In addition, provisions related to CSEC are basically scattered through several regulations such as Law Number 21 of 2007 on the Eradication of the Crime of Human Trafficking, Law Number 44 of 2008 on Pornography, Law Number 11 of 2008 on Electronic Information and Transactions, and Law Number 35 of 2014 on Child Protection. It is undeniable that technological developments have made CSEC not only conventional, but also unconventional through the existence of e-commerce. Therefore, in overcoming CSEC, criminal law politics is needed. This research aims to dig and explain the academic arguments related to the new modus in CSEC and how law enforcement in Indonesia against the development of CSEC. In addition, this research also aims to analyze the things that cause CSEC to occur unconventionally so that it can be found the right legal efforts to overcome indications of CSEC using e-wallets.

## **2. Methodology**

This research is normative legal research, namely research that is focused on examining the application of rules or norms in applicable positive law using a statutory approach and conceptual approach. The statutory approach is carried out by examining all laws and regulations related to the legal issues raised.[7] The conceptual approach is carried out by examining existing views and doctrines related to the issues raised views and doctrines are taken from books, journals and other scientific writings which are used as secondary legal materials in analyzing the issues discussed.

### **3. Discussion And Findings**

#### **3.1. Taking Stock: Understanding The Causes of Commercial Sexual Exploitation of Children (CSEC)**

The helplessness of children caused by physical and mental immaturity makes it very easy for children to become victims of exploitation.[8] One of the most common exploitation of children is sexual exploitation for commercial purposes.[9] Commercial sexual exploitation of children (CSEC) includes criminal practices that degrade and threaten the physical and psychosocial integrity of children. CSEC is a serious violation of children's rights as guaranteed by the Convention on the Rights of the Child 1989. This term is based on Stockholm Declaration which defines the crime of sexual violence against children's rights committed by an adult who gives money or goods to a child.[10] In other words, CSEC turns children into sexual and commercial objects.

Data from the Ministry of Women's Empowerment and Child Protection as quoted by databoks in 2023 which states that cases of violence against children reached 24.158 cases, which 10.932 cases were sexual cases.[11] In fact, since 2005 Indonesia has been ranked among the top ten countries with the highest cases of online-based child sexual abuse in the world as stated by the Deputy for Special Protection of Children of the Ministry of Women's Empowerment and Child Protection.[12] However, there are complex factors that make children vulnerable and shape the forces and create situations that make it possible for children to be commercially sexually exploited. The causal factors underlying the occurrence of CSEC can be classified into two parts, internal factors and external factors. Internal factors of the causes of CSEC refer to economic, social and cultural. Because family dysfunction will have an impact on the inability of parents to protect their children, which has an impact on the condition of children who are vulnerable to sexual exploitation. On the other hand, external factors in the occurrence of CSEC emphasize regulations and the performance of law enforcement officials. The strong reason behind this is that CSEC has not been comprehensively regulated.

The lack of an official definition of CSEC make it difficult for the public to distinguish between CSEC and sexual exploitation in general. In fact, both terms is differences even though they are related to each other. Article 1 point 8 of the Law on Eradication of Human Trafficking defines that "Sexual Exploitation is any form of utilization of the sexual organs or other organs of the victim for profit, including but not limited to all prostitution and obscene activities." However, there is no definition in the law regarding CSEC. This gap has resulted in assumptions in society that CSEC is only limited to sexual exploitation as stipulated in the Human Trafficking but in fact there are other forms of crimes that can be classified as CSEC. In related to children, sexual exploitation crimes have in fact developed and involve massive amounts of money as stated by Tri Andriyanto. Furthermore, trafficking activities in Indonesia in 2022 involved a turnover of Rp 114 billion, which included sexual exploitation of children.[13]

The rise of CSEC transactions by using e-wallets can be seen through several cases in developing countries, such as Indonesia and the Philippines. Starting from Indonesia, CSEC cases can be seen through the case of 14-year-old SR. In this case, SR used a virtual dating app that she learned about through her friends. On the app, SR established a relationship with MR who is an adult. MR asked SR to make an undressed video call with MN. Then, MN made a transfer of 150,000 to SR through a digital wallet.[14] Referring to the Philippines, the International Justice Mission (IJM) and the University of Nottingham Rights Lab suggest that half a million children or 1 in 100 children in the Philippines are trafficked in CSEC for profit. In this crime, a local trafficker (offender) sexually abuses a child directly, while a buyer (offender or online sex customer) will witness the real-time abuse through a video call. The cost for sex customers to enjoy CSEC content is \$25 USD paid to the trafficker via e-money.[15] CSEC does not only occur in developing countries, even in developed countries such as the United States there are also CSEC cases whose transactions use e-wallets. This can be seen through the data from the study of the American Society for the Positive Care of

Children (American SPCC) which states that more than 12.7 million reports related to child sexual exploitation entered the Cyber Tipline of the National Center for Missing and Exploited Children from 1998 to June 2016. From this report, it is known that 70 to 90 percent of CSEC victims are adolescents who are sexually exploited and commercialized.[16]

### **3.2. Ecommerce Transaction Misuse-Facilitated Commercial Sexual Exploitation of Minors**

Commercialization related to the actions, interactions, and transactions, thus commercialization are carried out by more than one party. Then, the question arises, who are the parties involved in the CSEC case, the most visible parties involved are sellers and buyers. However, the transaction activity between the two parties uses financial services (Financial Service Provider) for payment either to the child or other third parties. Financial Service Providers are one of the sectors that have been disrupted by technology.[17] Financial Service Provider is a financial service institution and/or party that conducts business activities of raising funds, channeling funds, and/or managing funds in the financial services sector. One of the example about FSP is an e-wallet provider. E-wallet as one type of non-bank digital wallet has become one of the innovations that change the way we conduct financial transactions in our daily lives. The presence of e-wallets answers the need for non-cash transactions in Indonesia. By using e-wallets, people who previously did not have access to banking services can conduct financial transactions, send and receive money and manage their finances more easily. E-wallets that exist in Indonesia such as OVO, Dana, LinkAja, Gopay, ShopeePay, Jenius, Paytren, dan Doku Wallet.

From June 2019 to June 2020, the results of the analysis on the use of financial apps in Indonesia showed an increase of up to 70%. The total sessions in 2019 for financial app usage was 1.67 Billion which increased to 2.83 Billion as of June 2020.[18] Although it is said that e-wallet security is guaranteed, but a system must have shortcomings. So that in fact in e-wallet transactions, account holders do not always use e-wallets for good and right purposes, there are actors who use e-wallets in bad faith. As well as using e-wallets to commit cybercrime. The increase in e-wallet users has led to an increasingly diverse range of cybercrimes, one of which is CSEC. This makes CSEC not only occurs directly (traditional), but it is also possible indirectly with e-wallet facilities. In this case, an e-wallet as a means of facilitating the crime can be named as cyber-related crime.

The Financial Transaction Reports and Analysis Center stated that many child sex offenders use e-commerce for sexual payments.[19] This is in line with the data from the National Center for Missing and Exploited Children (NCMEC) study which states that there were 5,566,015 cases of Indonesian child pornography content for 4 years from 2019 to 2023, which ranked Indonesia as the 4th country internationally and 2nd in the ASEAN region.[20] The data from the research does not explicitly show the number of arrests of CSEC perpetrators in Indonesia. However, the data shows that e-commerce is not only oriented as a medium for buying and selling goods and/or services, but also to facilitate CSEC crimes. The use of e-wallets in e-commerce has become prevalent among offender groups, both those who offer and those who receive or request such offers.

Child sexual exploitation still continues, as children are “legalized” be exploited by child sex connoisseurs even though the protection rules have also been made very stringent. Along with ease of e-wallets, it should be a signal for law enforcement officials to be actively involved to identifying the flow of user transactions. Undeniably, the emergence of online payments like this makes it difficult to analyze the type of CSEC transaction because the modus operandi is increasingly unclear to be forwarded to further processing. Follow-up of any alleged cases of decency to suppress irregularities in the use of e-wallets is certainly very helpful in finding out information on financial transactions of child predators that are classified as moral hazard or irregularities that can indicate a criminal offense.

**Table 1** Development of sexual exploitation law in Indonesia

| Article  | Child Victim Article  |
|--|---|
| Law Number 21 of 2007 on Human Trafficking Article 2 paragraph (1)   | Article 17<br>If the criminal offense as referred to in Article 2, Article 3, and Article 4 is committed against a child, the punishment shall be increased by 1/3 (one-third).   |
| Law Number 11 of 2008 on Electronic Information and Transactions Article 27 paragraph (1) Article 45 paragraph (1) | Article 52<br>In the case of criminal offenses as referred to in Article 27 paragraph (1) concerning decency or sexual exploitation of children, an enhancement of one third of the basic punishment shall be imposed.  |
| Law Number 44 of 2008 on Pornography Article 4 paragraph (1)   | Article 11<br>Any person is prohibited from involving children in activities and/or as objects as referred to in Article 4, ...<br>Article 37<br>Any person who involves children in activities and/or as objects as referred to in Article 11 shall be punished with ...   |
|  | Law Number 35 of 2014 on Child Protection Article 76I<br>Any person is prohibited from placing, allowing, committing, ordering to commit, or participating in the economic and/or sexual exploitation of a child.<br>Article 88<br>Any person who violates the provisions as referred to in Article 76I, shall be punished with ... |

Based on the table above, it can be seen that the government is committed to preventing and tackling CSEC even though there are still no specific laws governing CSEC. These regulations only include CSEC separately as part of other criminal regulations. In this case, it is important to consider that the commercialization of children in CSEC cases is not only packaged directly (traditionally) but indirectly by using financial service providers that have e-wallet applications. Even though there are no official statistics released by the Indonesian government on the number and distribution of child victims of CSEC, research by international organizations based in Indonesia has estimated the number of child victims of sexual exploitation as described in the previous sub-chapter.

Indonesia's legal reforms towards child protection are known to be significant, but Indonesian laws and regulations do not set out the definition of CSEC. In Law Number 21 of 2007 on Human Trafficking, "Human trafficking is the act of recruiting, transporting, harboring, sending, transferring, or receiving a person with the threat of violence, use of force, abduction, harboring, falsification, fraud, abuse of power or vulnerable position, debt bondage or giving payments or benefits, so as to obtain the consent of the person who has control over the other person, both within the country and between countries, for the purpose of exploitation or resulting in exploitation." This Act also regulates the aggravation of punishment for "qualified trafficking in persons" offenders, namely when the criminal offense is committed against a child, the punishment is increased by 1/3 based on Article 17.

In Law Number 11 of 2008 on Electronic Information and Transactions, "Electronic Information is one or a set of electronic data, including but not limited to writings, sounds, images, maps, designs, photographs, electronic data interchange (EDI), electronic mail,

telegram, telex, teletype, or the like, letters, signs, numbers, Access Codes, symbols, or perforations that have been processed which have meaning or can be understood by a person capable of understanding them.” This Act also regulates the aggravation of punishment for “qualified trafficking in persons” offenders, namely when the criminal offense involves decency or sexual exploitation of children, an aggravation of one-third of the basic punishment is imposed under Article 52. The rules seeks to provide a comprehensive form of protection to all levels of society, and in this case, including children. Unfortunately, the various modus operandi that occur in cyberspace have not been accommodated by this act.

In Law Number 44 of 2008 on Pornography, “Pornography is images, sketches, illustrations, photographs, writings, sounds, moving images, animations, cartoons, conversations, gestures, or other forms of messages through various forms of communication media and/or public performances, which contain obscenity or sexual exploitation that violates the norms of decency in society. This Act also regulates the aggravation of punishment for “qualified trafficking in persons” offenders, namely when the criminal offense is committed against a child, the punishment is increased by 1/3 (one third) of the maximum punishment under Article 37. The rules is still too broad, and only categorizes child pornography as being limited to the involvement of children in pornographic activities.

In Law Number 35 of 2014 on Child Protection, no article defines actions related to CSEC. However, in the explanation of Article 66, it is stated that “The term sexually exploited means any form of utilization of the sexual organs or other organs of the Child for profit, including but not limited to prostitution and sexual abuse.” The rules emphasizes actions that are prohibited from being carried out in the form of sexual exploitation, economic exploitation, fornication, sexual intercourse, and child trafficking. However, with the development of technology through the sophistication of the internet, make this regulation not able to reach child predators in CSEC cases. Due to the severity of the victim's suffering, it is necessary to reformulate the punishment that is commensurate with the victim's suffering to be imposed on the perpetrator. These problems need the good will of law enforcers to be able to harmonize existing legal regulations to be integrated in the application of the law. The ratio decidendi of the judge must provide a foundation for appropriate thinking.

### **3.3. Non-Penal Efforts in The Policy of Overcoming Indications of Criminal Acts of Commercial Sexual Exploitation of Children Through E-Wallet Transactions**

Any indication of a criminal offense, regardless of the escalation of the act, will continue to be rolled into the realm of criminal law enforcement. The use of criminal law as a tool for crime prevention is part of criminal policy. According to G.P Hoefnagels, crime prevention efforts can be pursued by:(a) Criminal law application; (b) Prevention without punishment; (c) Influencing views of society on crime and punishment/mass media. Crime prevention efforts can be broadly divided into 2, namely the "penal" mechanism (criminal law) and the "non-penal" mechanism (not/outside the criminal law pathway). In line with this, Muladi argues that these two paths are a pair that cannot be separated. In fact, both can be said to complement each other in efforts to tackle crime in society.[21]

In response to indications of e-wallet misuse as a medium for CSEC transactions, it appears that there are limitations to the ability of criminal law to overcome and eradicate these crimes. To compensate for the limitations of the penal mechanism, one of the important non-penal efforts to be utilized in criminal law enforcement in CSEC cases is through the use of the press or mass media. As stated by Barda Nawawi Arief, that non-penal mechanisms can be taken by nourishing the community through social policy and by exploring various potentials in the community, non-penal mechanisms can also be extracted from various other sources which also have potential preventive effects, such as the utilization of technological advances (known as "techno-prevention") and the utilization of preventive effects from law enforcement officials.[22]

According to Hoefnagels, the role of the mass media in the framework of criminal politics is aligned with other criminal political efforts, namely Criminal Law Application

(Practical Criminology) and Prevention Without Punishment. Mass media is a type of communication aimed at a number of dispersed, heterogeneous and anonymous audiences through print or electronic media, so that the same information message can be received simultaneously and at a moment's notice.[23] In general, mass media has a function as a medium of information, education, entertainment, social control. This is formulated in Article 3 paragraph (1) and paragraph (2) of Law Number 40 of 1999 on the Press: The function of the National Press is as a medium of information, education, entertainment and social control, and can function as an economic institution. The social control function of the Press is further explained in the General Elucidation of Press Law Number 40 of 1999, which states: "The press, which also carries out social control, is very important to prevent the abuse of power, be it corruption, collusion, nepotism, or other abuses and deviations."

Thus, the author can state that the utilization of mass media, both print and electronic, in relation to overcoming indications of misuse of e-wallets as a medium for CSEC transactions includes: (a) Information or actual news of various issues related to CSEC; (b) Disclosure and coverage of CSEC cases and modus operandi of CSEC practices; (c) Raising various CSEC news at various levels of government and law enforcement agencies objectively; and (d) Coverage of CSEC handling by law enforcement from investigation, prosecution, court and correctional stages. In response the strategic role of the mass media or press, it is appropriate for G.P. Hoefnagels to include the mass media or press as one of the elements that must exist in crime prevention policies. That's because mass media has a function to influence people's views on crime and punishment, if it is related to its function in overcoming the misuse of e-wallets as a means of CSEC transactions, mass media is expected to affect people's views on knowledge, feelings/beliefs and community participatory behavior in overcoming CSEC.

Control carried out by the mass media on law enforcement officials (criminal justice system), namely by covering / reporting the process of implementing the handling and overcoming the misuse of e-wallets as a medium for CSEC transactions. The material reported also has a strategic function and role in criminal politics (criminal policy), especially against indications of misuse of e-wallets as a medium for CSEC transactions. Here the author sees that the content of mass media coverage is one form of non-penal mechanism to tackle crime. The need for non-penal efforts is because the international community has felt the concern of this phenomenon, the Indonesian state certainly cannot ignore it. The readiness of legal instruments to anticipate the possibility of CSEC crimes must be available in addition to human resources and facilities that allow law enforcement to be effective. In this case, the use of mass media is not only a source of public information on CSEC cases, but also a trigger to optimize the function and role of law enforcement agencies in the criminal justice system in overcoming CSEC.

The implementation of the use of mass media by the government and law enforcement officials in handling criminal acts related to decency, has basically been utilized by law enforcers to report on cases that are being handled. However, in the author's opinion, this utilization is still passive except for the use of mass media by the Ministry of Women's Empowerment and Child Protection. This means that law enforcers do not proactively report on the handling of CSEC cases to the mass media. To understand the implementation of mass media utilization by law enforcers, it can be explained by using the Theory of Law Work from Robert B. Seidman as follows. Seidman as follows: (a) Every rule of law prescribes how a role occupant is expected to act; (b) How a role occupant will act in response to norms of law is a function of the rules laid down, their sanctions, the activity of enforcement institutions, and the entire complex of social, political, and other forces affecting him; (c) How the enforcement institution will act in response to norms of law is a function of the rules laid down, their sanctions, the entire complex of social, political and other forces affecting, and the feedbacks from role occupants; and (d) How the lawmakers will act is a

function of the rule laid down for their behavior their sanctions, the entire complex of social, political, ideological and other forces affecting them, and the feedbacks from role occupants bureaucracy.[24]

One of the propositions related to the discussion of the utilization of mass media by law enforcement in investigating the misuse of e-wallets as a medium for CSEC transactions is the third proposition which states: "How the implementing agencies will act in response to the rules is a function of the legal rules addressed to them, the sanctions and the whole complex of socio-political and other forces concerning them as well as the feedback coming from the role holders". Thus, the proposition can be stated that the implementing agency in this case is the police. This institution will act in response to the regulations addressed to them. The reason why this is addressed to the police is because based on Article 1 point 4 of KUHAP, "Investigators are state police officers of the Republic of Indonesia who are authorized by this law to conduct investigations.". An investigation based on Article 1 point 5 of the Criminal Procedure Code is "a set of investigator actions to search for and find an event suspected of being a criminal offense to determine whether or not an investigation can be carried out according to the procedures regulated in this law." Thus, to conduct monitoring or social control of the performance of law enforcement agencies and public services in suppressing indications of the use of e-wallets for CSEC transactions, the police can optimize the mass media or the press as a non-punitive effort in accordance with criminal law policy.

#### **4. Conclusion**

The unavailability of an official definition and limitation of CSEC make people confuse about CSEC and sexual exploitation in general. The act of commercialization which places children as a objects of commerce to fulfill sexual purposes. The act of commercialization committed by child predators is carried out by engaging financial services. Financial services integrated with technology such as e-wallets allow people who previously did not have access to banking services to conduct financial transactions, send and receive money, and manage finances more easily. This opens the CSEC gap not only directly but also possible indirectly with e-wallet facilities as a transaction medium. Inevitably, online payments like this make it difficult to analyze the type of CSEC transaction because the mode used is increasingly unclear to be forwarded to further processing. The emergence of indications of e-wallet abuse as a medium for CSEC transactions shows the limited ability of criminal law to overcome and eradicate these crimes. To compensate this limited penal instrument, one of the non-penal efforts is important to be utilized in criminal law enforcement in CSEC cases, by use the press or mass media. The use of mass media, to overcoming indications of e-wallets for CSEC transaction, among them are: (a) information or actual news from various issues related to CSEC; (b) disclosure and coverage of CSEC cases and the modus operandi of CSEC practices; (c) raising various CSEC news at various levels of government and law enforcement agencies objectively; (d) reporting on the handling of CSEC by law enforcement from investigation, investigation, prosecution, court and sentencing. In this regard, the use of mass media is not only a source of public information on CSEC cases but also a trigger to optimize the function and role of law enforcement agencies in the criminal justice system in tackling CSEC.

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