



Establishment of a Regional Agreement on Financial Service Providers to Combat Sexual Exploitation of Children

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Abstract. *Child sexual exploitation is a growing issue affecting victims, their families, and society. This research highlights the need for an ASEAN regional agreement to combat this issue, focusing on the role of financial service providers. The agreement should regulate key substances and address challenges in its formation and implementation. The agreement aims to harmonize regulations and customer due diligence standards and strengthen the reporting of suspicious transactions. However, challenges include legal disparities among ASEAN member states, concerns about customer data confidentiality and personal data protection, and limitations in financial service providers' technical capacity. To overcome these, a flexible approach, close cooperation, and capacity-building support are recommended. The study recommends expediting the establishment of the agreement with stakeholder involvement, enhancing financial service providers' capabilities in identifying signs of child sexual exploitation, and conducting regular evaluations of the agreement's implementation. By working together within the ASEAN regional agreement, financial service providers can significantly impact ending the cycle of child sexual exploitation and working towards a future where every child can live in safety and dignity.*

Keywords: *Child Sexual Exploitation, Crime Prevention, Financial Service Providers, Regional Agreement*

1. Introduction

The issue of sexual exploitation of children is a matter of increasing concern in the ASEAN region. According to a report by UNICEF, Southeast Asia has unfortunately become a hub for child sexual abuse, with an alarming number of approximately 2 million children being subjected to prostitution annually.[1] ASEAN countries, including the Philippines, Thailand, and Indonesia, grapple with significant challenges related to child sexual exploitation. These challenges manifest in various forms, such as child sex tourism, the trafficking of children for sexual purposes, and the proliferation of online child pornography.[2]

The rise in online child sexual exploitation can be attributed to the advancements in information technology and the widespread availability of the internet. Unfortunately, as Terre des Hommes in the Netherlands highlighted in 2013, perpetrators are using digital platforms to trade child pornographic content, recruit and seduce victims, and even facilitate child sex tourism. The COVID-19 pandemic has worsened this situation, as social distancing and increased online activity for children have heightened their vulnerability to online sexual predators.

Perpetrators of child sexual exploitation frequently employ the services of financial institutions, including banks, electronic payment systems, and e-money providers, to facilitate their actions. Financial transactions are crucial in facilitating this criminal network, encompassing the acquisition of child pornography materials, payment for streaming services that exploit children, and even the arrangement of child sex tourism packages.

Perpetrators exploit various aspects, including the confidentiality of customer data, the swiftness of cross-border fund transfers, and the absence of mechanisms to detect suspicious

transactions at financial service providers (Keesoony, 2016). Law enforcement officials face significant challenges when it comes to tracing the movement of funds and uncovering networks involved in child sexual exploitation crimes.[3]

Financial institutions need to be aware that their services may unknowingly be used to facilitate criminal activities. On the other hand, some individuals may fail to properly implement the concepts of customer due diligence and suspicious transaction reporting. Without a unified set of regulations and oversight at the regional level, the task of identifying and preventing the misuse of the financial system for child exploitation becomes even more challenging.

This study aims to examine the level of urgency for ASEAN nations to establish a regional agreement in order to effectively tackle the issues arising from financial service providers' involvement in facilitating child sexual exploitation. Regional agreements are crucial in aligning regulations and standards for crime prevention within a region.

This research aims to analyze the current adequacy of national legal frameworks in each ASEAN country in preventing and prosecuting the misuse of financial services in cases of child exploitation. An examination of international best practices, including the Financial Action Task Force (FATF) recommendations, will also be undertaken to pinpoint areas that necessitate bolstering through regional collaboration.[4]

Furthermore, research will delve into the potential advantages of implementing regional agreements, such as enhancing the effectiveness of law enforcement by facilitating the exchange of information and evidence across borders. Additionally, it will explore how these agreements can contribute to the safety of victims and witnesses by establishing regional cooperation mechanism. Therefore, it is important to thoroughly analyze the necessity of regional agreements.

This research not only evaluates the urgency of the situation but also seeks to pinpoint essential regulations that must be implemented in the regional agreement to effectively combat the misuse of financial services for child sexual exploitation.

This study aims to identify regulatory gaps and shed light on criminals' common techniques to gain unauthorized access to banking and payment services. According to this mapping, the research will establish important clauses to be included in the agreement. These clauses cover customer due diligence standards, suspicious transaction parameters, procedures for freezing assets and closing accounts, and cooperation protocols with law enforcement.[5]

As part of the research, an analysis will be conducted to assess financial service providers' capacity-building requirements to successfully implement the agreement. Additionally, recommendations will be provided for monitoring and evaluation mechanisms to ensure that participating countries comply with the agreement. Through a meticulous examination of the required procedures, this research aims to make a valuable contribution towards expediting the creation of a comprehensive regional agreement.

2. Methodology

In this study, a normative juridical approach will be utilized, involving the examination of secondary sources of information or library materials for the purpose of conducting legal research.[6] The chosen approach is based on the research's focus on analyzing various legal instruments at the international, regional, and national levels that are relevant to preventing and eradicating child sexual exploitation through financial service providers.

The research will analyze various international treaties, including the Convention on the Rights of the Child (CRC), the CRC Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography, and the ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP). The national legal frameworks of ASEAN countries will be examined in relation to child protection, anti-money laundering, and financial services regulation.

The study will employ a legal perspective to examine the advantages and disadvantages of existing legal mechanisms as well as identify areas that require attention through the establishment of a regional agreement regarding the role of financial service providers in combating child sexual exploitation.

This research will utilize secondary data analysis, encompassing primary, secondary, and tertiary legal materials.[7] Primary legal materials consist of international treaties, national laws and regulations, and court decisions that are pertinent to the matter at hand. Secondary legal materials encompass a wide range of resources, including books, journal articles, organizational reports, and the findings of previous studies that delve into related subjects. Additional explanations of the terms used will be provided through the use of tertiary legal materials, such as legal dictionaries and encyclopedias.

Secondary data will be gathered by conducting extensive research on legal databases, scientific journal repositories, and websites of reputable institutions like ASEAN, UNICEF, UNODC, and FATF (Financial Action Task Force). The data collected will be analyzed using the descriptive-analytical method. This method involves systematically describing legal facts, connecting them to international and regional legal theories, and drawing conclusions to address the research problem.

Through the utilization of a normative legal approach and secondary data analysis, this study aims to provide a comprehensive understanding of the significance of promptly establishing an ASEAN agreement regarding the role of financial service providers in combating child sexual exploitation.

3. Findings and Discussions

3.1 Urgency of Establishing an Asean Regional Agreement

The establishment of an ASEAN regional agreement on the role of financial service providers in combating child sexual exploitation is driven by the need to harmonize crime prevention regulations and standards among member states. This is crucial due to the frequent occurrence of child sexual exploitation across borders. Current national legal frameworks in ASEAN countries can hinder effective crime prevention and prosecution efforts due to differences in definitions, reporting obligations, and information-sharing mechanisms between financial institutions and law enforcement.[8]

Regional agreements can address this issue by setting minimum requirements for all participating nations, allowing for flexibility in implementation to accommodate the specific circumstances of each country. They can promote regulatory harmonization and foster closer cross-border cooperation, such as sharing financial intelligence information, coordinating law enforcement efforts, and providing mutual legal assistance to combat child sexual exploitation crimes.[9]

International organizations like the FATF and Egmont Group have extensive expertise in preventing financial crime, providing knowledge and recommendations for formulating regional standards.[4] These standards encompass various requirements, such as conducting customer due diligence, utilizing technology to identify suspicious transactions, and providing training to financial service provider staff to enhance their awareness of indicators of child sexual exploitation.[5]

Establishing an ASEAN regional agreement strengthens crime prevention efforts in the region and enhances the capacity of member states to meet international obligations, such as those outlined in instruments like the Optional Protocol to the Convention on the Rights of the Child and the Sustainable Development Goals (SDGs). It also enhances law enforcement cooperation and facilitates information exchange among member states, facilitating the prosecution of child sexual exploitation crimes that frequently cross national borders.[10]

Regional agreements can also establish standardized protocols and procedures for the sharing of financial intelligence data among member states' financial intelligence units, while maintaining confidentiality and protecting personal data. They can also provide provisions

for mutual legal assistance in evidence collection, witness examination, asset freezing, and extradition of suspects among ASEAN countries.[5]

The ASEAN regional agreement on the role of financial service providers in combating child sexual exploitation should prioritize capacity building and collaborative training for law enforcement officials, addressing skills and resource gaps among ASEAN countries. By focusing on victim and witness protection, ASEAN can guarantee that children impacted by sexual exploitation receive the necessary support to restore their physical, psychological, and social well-being.[11]

3.2 Substance of Regional Agreement

Customer due diligence (CDD) is a crucial aspect of the ASEAN regional agreement, requiring financial service providers to identify, verify, and monitor customers and transactions that suggest a significant risk of child sexual exploitation. The agreement must establish comprehensive standards considering unique risk factors associated with these crimes. Financial service providers must adhere to strict regulations, including understanding the purpose and characteristics of their business relationship with the customer.[12]

Enhanced due diligence (EDD) on customers and transactions that suggest a significant risk of child sexual exploitation may be required under the agreement.[5] Various risk indicators may be considered, such as customer profiles involving individuals with a history of child sex crimes, suspicious transaction patterns, and connections to industries or sectors susceptible to exploitation.[13]

Financial service providers may be obligated to utilize advanced technology and analytical tools, such as transaction monitoring systems based on artificial intelligence (AI), to identify and prevent financial transactions associated with child sexual exploitation. Proper training for staff is necessary to effectively interpret the analysis's findings and take necessary action.[14]

The ASEAN regional agreement must also establish regulations pertaining to the reporting of suspicious transactions (STR) in relation to child sexual exploitation. These should include clear guidelines and indicators for financial service providers to identify transactions linked to child sexual exploitation, involving key stakeholders in the development process. Training and enhancing the capabilities of financial service provider staff are also essential.

Regional agreements in ASEAN countries require financial service providers to freeze assets and close customer accounts if there is reasonable suspicion or evidence of a customer's involvement in child sexual exploitation. Asset freezing should occur without notice, and regional agreements should incorporate mechanisms for affected customers to question or seek reassessment of asset-freezing decisions.[5]

Effective mechanisms for information exchange and coordination of asset-freezing measures are crucial, as child sexual exploitation often involves the movement of funds between countries. Establishing well-defined protocols and efficient communication among financial service providers, FIUs, and law enforcement agencies will facilitate the prompt and efficient freezing of assets.

Establishing a connection between asset-freezing provisions in regional agreements and the criminal justice systems of member states will facilitate the prompt and efficient freezing of assets. Financial service providers should adopt a "zero tolerance" policy towards child sexual exploitation, requiring the termination of business relationships and permanent account closure measures.[13]

To effectively combat child sexual exploitation, financial service providers must enhance their capacity and awareness, implement comprehensive training programs, and emphasize the importance of strong collaboration between providers and law enforcement officials. Prompt sharing of information and evidence, as well as the exchange of financial intelligence data, are essential aspects of these agreements.[15]

The effectiveness of cooperation between financial service providers and law enforcement officials in combating child sexual exploitation relies heavily on a robust legal framework in ASEAN countries.

3.3 Challenges in the Establishment and Implementation of the Agreement

The ASEAN regional agreement on the role of financial service providers in combating child sexual exploitation faces significant challenges due to the varying legal and regulatory systems among member states. The region's diverse legal traditions, including common law, civil law, and Islamic law, can significantly influence the definition, reporting obligations, and consequences for violations. Additionally, developing countries like Laos and Myanmar may face challenges in implementing customer due diligence standards, reporting suspicious transactions, or freezing assets in line with treaty provisions.[16]

To address these challenges, regional agreements should adopt a flexible and gradual approach, allowing countries to adapt their implementation to their legal systems and domestic situations.[18] Technical assistance and capacity building can help support countries with less developed systems in enhancing their regulatory frameworks and infrastructure.[9] Policy coordination and dialog mechanisms at the regional level can enhance the sharing of information and best practices among ASEAN countries.[17]

Concerns regarding customer data confidentiality and personal data protection must be carefully considered during the formation and implementation of the agreement. Financial service providers must maintain the confidentiality of their customers' data and adhere to regional agreements and relevant regulations to effectively address child sexual exploitation.

Regional agreements should incorporate explicit provisions regarding the protection of personal data and find the right balance between confidentiality and reporting obligations.[13] These principles include the lawful purposes of data processing, ensuring proportionality, and upholding the rights of data subjects.[18]

Regional agreements can facilitate the harmonization and improvement of data protection frameworks in ASEAN countries by establishing baseline standards and promoting the adoption of regulations that align with respected international frameworks.[19]

Raising awareness and providing comprehensive training to financial services providers is crucial for understanding their obligations regarding confidentiality and data protection. Implementing regional agreements can help manage the balance between confidentiality and reporting. However, not all providers have the necessary technical expertise and resources to effectively address child sexual exploitation. Key components for effective customer due diligence include sophisticated risk management systems, access to reliable databases, and well-trained staff. Financial constraints can impact the ability of smaller providers to invest in system upgrades, staff training, or hiring specialized personnel.

To address this challenge, regional agreements should consider the diverse conditions and capabilities of member countries and their financial service providers. They should consider a more adaptable approach, providing a transition period for providers with limited capacity. Technical assistance, capacity building, and the exchange of best practices among ASEAN countries are also essential. Collaboration among providers can be fostered through industry forums and joint training programs.[17]

Success in addressing technical capacity and resource challenges depends on the commitment and support of national authorities in every ASEAN country. Creating a regulatory and institutional framework supporting the implementation of the regional agreement is essential.

4. Conclusions

The establishment of an ASEAN regional agreement on the role of financial service providers in combating child sexual exploitation is crucial for its effectiveness. The agreement must be comprehensive and engaging, involving all relevant stakeholders, including government officials, private sector entities, academic institutions, and civil society organizations. Public

awareness campaigns should be conducted to emphasize the importance of financial service providers in preventing child sexual exploitation.

To successfully implement the agreement, a well-rounded capacity-building program should be developed, incorporating comprehensive training for financial service provider staff at all levels. The training should focus on risk indicators, customer due diligence procedures, and suspicious transaction reporting mechanisms. The adoption of advanced technologies, such as artificial intelligence, machine learning, and data analytics, should also be promoted.

A robust compliance culture and ethical leadership should be fostered, and senior management must demonstrate dedication to addressing child sexual exploitation. Consistent assessment and analysis of the efficacy of regional agreements are essential, with periodic review mechanisms and performance indicators. Involving stakeholders, such as financial service providers, law enforcement officials, and civil society organizations, can help identify challenges and opportunities for improvement.

By implementing these recommendations, an ASEAN regional agreement on the role of financial service providers in combating child sexual exploitation can become a powerful tool, safeguarding children and enhancing the integrity and stability of the financial system.

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